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The 16 papers in the second part of the Addenda to this proceedings are: (1) "Catching a Glimpse of Hegemony: The Covers of 'Life' Magazine during the Gulf War" (Brian B. Feeney); (2) "'Cohen v. San Bernardino Valley College': Employee Speech or Academic Freedom" (Nancy Whitmore); (3) "'New York Times'' Use of Symbolism in Foreign Conflict Reporting: The Case of the Eritrean War (1962-1991)" (Meseret Chekol); (4) "The Price of Iconoclasm: The Correspondence of E.W. Scripps and Frank Harris Blighton during Arizona's Pursuit of Statehood" (Michael S. Sweeney); (5) "Perceptions of Newspaper Bias in a Local Environmental Controversy" (Katherine A. McComas; Clifford W. Scherer; Cynthia Heffelfinger); (6) "Does Liberalization Lead to Greater Competition? The Case of Indian Telecommunications" (Kalyani Chadha); (7) "Effects of Citation in Exemplifying Testimony on Issue Perception" (Rhonda Gibson and Dolf Zillmann); (8) "My Brother's Keeper?: Publisher Liability and the Regulations of the Fair Housing Act on Discriminatory Housing Advertising" (Robert Meeds); (9) "How Objective Were the Broadcast Networks and CNN during the Persian Gulf Crisis?" (Robert A. Pyle and Robert E. Wicks); (10) "The Impact of Media Ownership--How Time and Warner's Merger Influences 'Time's' Content" (Tien-tsung Lee and Hsiao-Fang Hwang); (11) "Affirmative Action and Racial Identity in the O.J. Simpson Case" (Kimberly A. Neuendorf; David Atkin; Leo Jeffres; Alicia Williams; Theresa Loszak); (12) "Moving to the Center: Press Coverage of Candidates' Ideological Cleavage in a Campaign" (Tien-sung Lee and Anthony Y.H. Fung); (13) "A Limbo of Ambiguity: The Editorial Rights of State-Owned Licensees" (Laura E. Johnson; (14) "Magazines in Capitalist Russia: Impact of Political and Economic Transitions" (Leara Rhodes); (15) "The Gratifications of Pager Use: Fashion, Sociability and Entertainment" (Louis Leung and Ran Wei); and (16) "The Construction of the News: A Survey of the Italian Journalists" (Andreina Mandelli and Francesca Gardini). Contains references and endnotes. (NKA)

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Catching a Glimpse of Hegemony: The Covers of Life Magazine During the Gulf War

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December 11, 1996

Abstract

According to Gramsci, hegemony sustains its invisibility and illusion of common sense reality by constantly constructing social reality through the imposition of a seamless narrative overlay. Occasionally this process is disrupted by an event that exceeds the bounds of any text such as wars and disasters. For a brief moment, the seams are discernible in the narrative overlay. Life magazine's coverage of the Gulf War was one such moment. The magazine returned to a heroic World War II grammar of pictorial iconography during the period of heightened social anxiety immediately before and during the invasion of Kuwait and Iraq. This is especially evident in Life's covers which a close reading reveals to be startling similar to many of its World War II covers in both tone and choice of subjects, even to the point of excluding people of color.

In order for hegemony to sustain its invisibility and illusion of common sense reality, it must constantly construct reality through the imposition of a seamless narrative overlay. The inequity in the way in which resources are distributed in society is naturalized easily and routinely in culture production. It is woven into the contents of television and movie fiction, popular magazine articles, talk shows and the presentation of news on television and in newspapers. There exists a rich body of analysis on the detailed workings of hegemony in all this popular culture fare in the body of scholarship known as cultural studies (especially Fisk, 1989; Hall et al, 1980 and the Glasgow Media Group, 1976). What is of particular interest is the exception in this process rather than the rule. On those rare occasions when the magnitude of an event exceeds the bounds of any text, such as disasters and war, the routine by which hegemony is imposed is temporarily disrupted, and, for a brief moment, seams appear in the narrative overlay by which reality is constructed.

The Gulf War in 1991 represents one of those moments of temporary disruption. The magnitude of the event threatened to overwhelm the narrative structure by which meaning is contained, so (to stretch the metaphor), the narrative structure was reinforced by a double-stitching consisting of a reliance on the cliched narrative of an earlier period. This reliance on a dated "grammar of iconography" (Nichols, 1991) is frozen forever on five covers of Life Magazine to be decoded singly and as a narrative sequence. A close reading of these covers reveals that during those unsettled weeks when the United States was poised to start a ground invasion whose success could not be known in advance, and immediately following the wildly successful 100 hour ground war, Life Magazine reverted to its own World War II grammar of iconography, forgetting everything that it had learned during the Korean and Vietnam wars.

Before embarking on a close reading of these covers, it is helpful to consider the degree to which human agency is at work in imposing the hegemonic narrative. Conspiracy theories provide the comfort of simplifying the complex, but the source of hegemony is more likely to be found in the writings of Antonio Gramsci (1977) and Emille Durkheim (1951) than in looking for a cabal of evil men in the offices of Life Magazine. As has been pointed out, (Barthes, 1977) individual photographers seek out certain kinds of shots having learned what is likely to get published. Individual editors choose from many photographs knowing what is likely to boost magazine stand sales. Many different photographic techniques are available to photographers and editors to boost the commodity value of a magazine cover shot such as framing, lay-out, lighting effects, posing the figures, adding props and anchoring the photograph with an engaging caption.

Obviously, these editors and photographers do not make these decisions with the intent of bolstering the control of the ruling class over society's resources. They are merely trying to boost sales and maybe win a Pulitzer Prize. Magazine sales are generated by fulfilling the deeply felt needs of the readers.

Historically, Life Magazine has been extremely successful at both generating sales and winning Pulitzers. Life has done this by positioning itself as America's family photo album, relying on extremely large cover photographs which bleed to the edges using high quality glossy paper. Its founder and long-time publisher Henry Luce fostered a company culture in which editors and photographers regarded the world and the magazine as "respectful and awe-struck equals," (Hamblin, 1977). Central to this effort was the creation of a sense of connectedness between Americans. For example, in the early 1960s Life sent 12 photographers to 12 different locations (a Brooklyn hotel swimming pool, a Kentucky horse stable, a Chicago family living room, a Detroit hospital room, etc.) to capture 12 different groups of people laughing at the same joke on The Ed Sullivan Show at the same moment.

The commercial and journalistic success of Life Magazine lied in its ability to meet the public need for a sense of connectedness and familiarity in an uncertain and rapidly changing world by, "furnishing this already crowded world with a duplicate one of images which make us feel that the world is more available than it really is," (Sontag, 1977). This duplicate world is the socially constructed world of naturalized inequity which the public has been socialized to crave. The editors of Life did not invent it, it is simply how societies order themselves so that "the needs of society are calibrated to what their society has to offer," (Thomas, 1986). To the extent that a magazine is able to encode that social structuring on its covers and in its articles it is rewarded with high sales and Pulitzer Prizes.

This social structuring is subject to change on two axes. It evolves over time to keep up with the ever increasing cultural and pictoral sophistication of the public, and it adapts to special needs of the moment such as crisis (as in a reversion to earlier narratives in the case of war) or prosperity (as in the consumption orientation of the 1980s.) It is just such a reversion to an earlier style of narrative overlay that Life underwent during the Gulf War. It is probably no coincidence that for the duration of the Gulf War that Life not only reverted in style, but reverted in fact. It came out as a weekly magazine, just as it had been between 1937 and 1972.

To fully appreciate the extent to which Life Magazine reverted to its own World War II era grammar of iconography it is helpful to briefly recount earlier wars covered by Life, and to examine the changes in the style of coverage from World War II to Vietnam. This recounting also provides a possible explanation of why Life folded as a weekly in 1972.

Life Magazine was only five years old when Pearl Harbor was attacked, and the over-sized picture magazine format was still a new phenomenon. However, Life had already established its own signature style of blurring news and entertainment and celebrating spectacle on its covers by presenting a mix of movie stars, fashion, great men of industry, and depictions of war and warriors around the world. When viewing the covers in succession, the transition to an America at war appears to have not required any stylistic transition. The December 22, 1941 issue has on its cover a black and white photograph of the flag from the U.S.S. Arizona (sunk at Pearl Harbor) still flying. There is no caption as the historical event was so riveting that any caption was presumed to be gratuitous. The American flag appears twice more during this period in the very few color photographs appearing during the war, (color is reserved for the flag and for end-of-the-year issues featuring fine art.)

For the duration of the war, 55% of the covers featured war themes. The coverage can best be described as the celebration of heroes. These heroes included heads of state, generals, ordinary soldiers, the wives of ordinary soldiers at home, women and children at home contributing to the war effort, and even the machines of war such as ships, airplanes and canons. Almost all the pictures are in black and white, the captions are very simple two or three word identifiers, and the pictures of men tend to be direct address close-ups. The pictures of women and children at the home front are generally taken from far enough away to show the war related activity that they are engaged in, even if it is just sitting in an easy chair smoking a cigarette with the caption, "Lonely Wife." Pictures of war machines tend to be taken at odd angles and from below in an effort to acentuate their size and power. If this narrative overlay were to be reduced to one sentence, it would be, "With your help, and with these machines, these men will save the world".

With the war's end the covers feature some "Welcome home!" shots of generals, war heroes and soldier/sailor everymans, then switch to the concerted frivolity of such themes as "House Party High Jinks," and "Baulky Baubles." When President Truman entered the United States into the Korean War five years later, Life featured war themes on only 23% of it covers the first year and had no war coverage on its cover at all during the second year of the Korean War.

The covers on the Korean War were restricted to generals and soldiers in the field in the same heroic style of direct address close-ups. War machines and home front activities were entirely absent. It appears that when the war bogged down into two static defense lines after the Chinese entered, the Korean War lost the photogenic drama of large battles and conquests that the heroic mode of coverage requires. Rather than find another mode of coverage appropriate to this kind of war, Life apparently chose to simply ignore it. Thus over the course of this two year war the narrative overlay shifted from, "These men will save the world (again)," to no coverage at all.

Life's covers had a ten year hiatus from war when on October 27th, 1961 Life's cover appeared a close-up color illustration of a U.S. Army Ranger peering through jungle foliage with the caption "GI Training for Guerilla War." Another caption at the top of the page reads, "Vietnam, our next showdown." There was no follow-up to this new, Graham Greene style war narrative until June 12, 1964 when Life's cover consisted of a U.S. marine infantry patrol walking in a line toward through a rice paddy toward the camera. The caption is "At War in Vietnam."

On November 27th of the same year is a cover photograph of U.S. Army Special Forces soldiers burning a suspected Vietcong hide-out. The long cover caption reads, "A report on the Americans working and fighting here as the crisis gets worse". The soldiers are only partially illuminated in spooky chiarascura lighting. Even at this early stage of the war, the theme of Life's coverage appears to have shifted from heroic to intrigue to an army under siege while pursuing an uncertain military commitment in an obscure, faraway country.

This shift in style became more pronounced in 1965. Having to compete with the Civil Rights Movement and the Apollo space missions, the war made it onto only four covers. One cover contains a close-up of a North Vietnamese postage stamp depicting a soldier shooting at a U.S. helicopter. The next cover that year shows marines carrying a wounded comrade to safety with the caption, "Deeper Into Vietnam." The next cover is of a draft induction center showing soldiers in uniform who stare with hostility at the camera while inductees in civilian clothes in the background stare with hostility at the soldiers. The caption reads, "Doubling the Draft." The final picture of the year is a close-up of a teen-age Viet Cong prisoner with electrical tape covering his eyes and mouth. The caption reads, "The Blunt Realities of Vietnam."

The photographs for the rest of the war are consistent with this theme of good soldiers placed in an impossible situation and honest dissension at home. This coverage reached its peak in 1967 and 1968 when Life gave the war seven and eight covers respectively. Life then dropped Vietnam from its covers in much the same way it dropped the Korean War in 1952. It gave the war only one cover in 1969 which was for the cover story, "The Faces of One Week's American Dead in Vietnam." The cover contained an extreme black and white close-up of one of the young men killed that week.

The story was a tear jerker, showing home photographs of all of the 248 U.S. soldiers who died in one typical week of the war. Thus, Life's style of coverage shifted even further away from a heroic war to unmitigated tragedy. For the first time in modern American history, the master narrative overlay broke down in a major area of social endeavor, warmaking. (The rest of the master narrative, of course, remained intact and was effective enough to co-opt much of the counter-culture of the 1960s as is depicted by Todd Gitlin in "The Whole World is Watching".)

The last cover on the war, appearing on May 12, 1972 was the most stark of all. Having established black and white photography as its tragic mode, it consists of a black and white photograph of a U.S. soldier carrying a dead comrade on his back with a caption at the bottom in very large red letters reading, "VIETNAM RETREAT". The "Vietnamization" of the war would be completed at the end of 1972 and so too would Life fold as a weekly magazine. It would seem that Life and the U.S. military's image were done in by the same loss of a heroic age. Perhaps, this faster, internationalized and fully commodified world no longer could accommodate the heroic narrative overlay suggested by an over-sized glossy cover photograph format, and thus could not sustain a weekly magazine built on it. The narrative overlay needed to be slicker and more supple.

Life reemerged as a monthly in 1979, but it had forever lost that position of dominance that prompted Lucius Beebe, editor of the nation to write in 1958; "For a quarter of a century...the most powerful single influence on American tastes and its social destinies has probably been Life Magazine...Publicity and promotion have been within its gift or refusal to a degree that has made its editors a great deal more powerful than the Federal government." Life's journalistic niche was not to be filled by any other one magazine. Time and Newsweek assumed the news and social issues half, and weekly magazines such as People and Women's Day now cover the personalities and fashions half.

Life began 1991 with the usual "The Year In Pictures", covering the photographic highlights of the previous calendar year and followed it in February with an issue devoted to Abraham Lincoln. Then on February 4th, President Bush's months long troop build up in Saudi Arabia was completed, and he began the 100 hour ground war. Life responded by first running its March issue featuring a close-up color photograph of a soldier, and followed it with a series of four weekly issues beginning February 25th and ending March 18th. Each of these five issues have the same logo, the usual word "Life" in all capital letters white on red plus a black ban underneath with white capital letters reading, "Life goes to war." The four weekly issues also have a diagonal yellow banner covering part of the first two letters in the word "Life" which read "Weekly".

By thus telegraphing to its readers that Life had rediscovered its old glory as America's showcase for the heroic, it assumed a grammar of iconography that it had not attempted since the beginning of the Korean War 30 years earlier. At a time when Saddam Hussein was threatening that this would be "the mother of all battles," and both military experts and the public were not yet aware of the vast difference between a jungle and a desert war, Life embarked on a photojournalistic narrative designed articulate the nation's sense of its own resolution to make the sacrifices necessary to impose justice through force of arms.

This was done through a very skillful combination of photograph selection, cropping, poses and props. Each picture is both a self-contained story and part of a five-part pictoral story. We will now look at these pictures singly and in combination.

The first picture to appear on news stands consists of a close-up of Captain David Ray Smith. There is no caption, not even the month of the issue. There is only the picture and the Life logo. The photograph is cropped so that it cuts off the top of his head, his left shoulder and just below the neck. The logo covers the left third of his helmet. Captain Smith is wearing desert fatigues. His helmet is strapped to his head, and the helmet has his captain's bars on it and his name below it. He stares straight ahead with just enough tension in his chin to suggest steadfastness. Behind him is cloudless blue sky. He has a grease mark on the side of his nose and under his left eye.

The lack of any caption immediately evokes the first cover picture to appear after Pearl Harbor was bombed. A simple picture of the national flag waving as a statement of resolve, sure to be understood by every American. In this case, we have an American soldier everyman whose solemn gaze is like a flag in its symbolic import. Even his name is entirely without ethnicity. He has a simple Anglo-Saxon name and an Anglo-Saxon face - still the American common denominator at a time when circumstances are too uncertain to indulge political correctness.

The grease marks allude to two cultural reference points. One is Indian war paint and the other is a football game. They are both apt under these circumstances. Movie westerns have made painted Indian braves a potent symbol of bravery and frontier fighting spirit. The big football game is a symbol of American aggression, usually contained within the ritualized, rules driven context of football, but now unleashed on a foreign aggressor.

On the one year anniversary of Pearl Harbor, Life ran a cover photograph extremely similar to this. It was a close-up of a firm-jawed Anglo-Saxon looking marine pilot with the caption, "Marine Ace Smith." This previous incarnation of the resolute warrior with the same last name gives the same steady gaze into the distance and has the same cloudless blue sky behind him. The 1991 cover could be turned to black and white, the 1942 photograph colorized then swapped and the effect would be exactly the same. These two cover shots would thus pass Fisk's (1982) commutation test whereby one switches elements within a single photograph or switches the placement of entire photographs to see if the cultural meaning is changed.

The next Gulf War cover also contains the presumption of intimacy that the war is of such import to every American that a caption would be gratuitous. It contains a little boy in full frame clutching a flag. He is bundled in winter clothes and has a cherubic northern European face. The setting is also unclear, it could be the tarmac at an Air Force base. A shadow behind the child suggests the large wing of a transport plane. Behind the child the sky is dark and forboding. This is an unsettling military setting where a child is obviously out of place. In this setting it appears that the child's one protection is the American Flag.

The child is looking up, presumably watching his father or mother leaving for war. The power of the picture lies in its establishing the tension between the separation that is occurring and the family togetherness that could be occurring in an effort to make vivid what exceeds literal representation (Nichols, 1991). The narrative of this photograph could be distilled to the single sentence, "Even the littlest among us must share in the sacrifice, but he is protected by the might of America".

The next cover is a photograph of U.S. soldier standing in the desert with his back to the camera holding the American flag. It is a medium long shot which fully places him in the desert setting. There are no other people or things visible around him. He too has only the flag to protect him. He could easily be the father of the little boy of the previous week with the flag serving as a magic unifying symbol. The caption reads, "Desert Storm Paratrooper" He is striding away from the camera with his pack and his gun slung over his shoulder in an action suggestive of him personally delivering the might of America to the foe.

By the time the next cover was assembled the war had already been won. It depicts a victory celebration with General Norman Schwartzkauf dressed in his combat fatigues with each arm around an African-American soldier, another African-American soldier is kneeling between his legs and a northern European looking American soldier is straining to look at the camera over Schartzkauf's shoulder. They are all beaming. The General's cap is super-imposed over the Life logo while an African American soldier's helmet is covered by the logo. A sliver of desert backdrop can be seen. The sky is clear and blue. Large black letters at the top read, "HEROES ALL".

This is the only cover of the set to contain a modern twist.

Conquering generals depicted during World War II and the Korean War are always solitary and directly address the camera with a severe expression (with the one exception of Patton who smirked.) This conquering general is posed to present a warm and fuzzy persona. He is depicted embracing his soldiers in much the same way a nursery school teacher embraces the children under her care. The selection of his cap to appear over the logo while the soldier's helmet went under leaves no doubt about the actual power relationships present. This is a fleeting moment of giddy joy on the battlefield in which victory has been achieved. Only now can the national interest afford to present soldiers of color in the inner circle while a Caucasian soldier must peer in from the outside. During the tense period before victory, northern European Americans were the central focus of Life's covers.

The final cover in the series is a stock coming home shot.The caption even reads "coming home" in large white capital letters at the top. It depicts a husband and wife who both served as soldiers in the Gulf reunited at the conclusion of the war. It is a close-up showing her face pressed against his shoulder and the back of his head. She has her eyes closed and is smiling. They are both wearing desert fatigues. The shoulder patch of the American flag on her near shoulder is plainly visible. There is no background to create a sense of location.

This is a narratively simple and timeless depiction of personal resolution after the challenge of war. They could be the parents of the boy on the tarmac depicted three weeks earlier. They are stand-ins for every American soldier who did their duty and returned. This is not a reunion tinged by anxiety over the distancing effect that the war experience may have on them, (as Life described in a 1966 story on marriage and war). This is a precious family moment consecrated by that ubiquitous symbol of American might and protection, the American Flag on the woman's shoulder.

Taken as a set, these covers form a story that can be articulated as; "The American soldier was called to duty in a foreign land. The American family supported him and bravely endured his absence. He took the fight to the enemy and vanquished him through American might. His brave leader gave him a heart-felt thanks and he returned to his loving family". This narrative should have been too sentimental and unsophisticated to be taken seriously. However, if sales figures are any indication, it was taken very seriously by large numbers of Americans. It seems that for this brief period of public anxiety over the war, the public's level of sophistication was also temporarily suspended making it highly receptive to this very dated and cliche narrative.

This series almost became an entirely ephemeral phenomenon disappearing without a trace. These four weekly issues only appeared in news stands and at supermarkets, and only appeared in the United States. They very quickly sold out, leaving them unavailable to libraries with subscriptions to Life. Had they not appeared in Life's 60 year anniversary issue in October of 1996, almost nobody would have remembered them or returned to them for critical analysis with the pall of war lifted. Moments in which the hegemonic narrative overlay woven into culture production is made visible are fleeting. It only occurs when societies are placed in an extreme situation. Invisibility is very quickly restored with the return to normality. Hence, artifacts such as this are vitally important to critical scholars.

These moments occur on a smaller scale when a disaster such as Three Mile Island or Bhopal occurs. For a brief time the closed circle of journalists and their routine sources lose their monopoly on interpreting events. Contestation occurs, and a close study of how order is restored by the reimposition of the hegemonic narrative is possible (Galtung & Ruge, 1973). These periodic moments of narrative lapse deserve the scrutiny of scholars. Opportunities for clarity are rare, but if we look closely enough we may yet awaken from the cultural trance.

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LIFE
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RVESTER

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SEPTEMBER 27, 1943 10 CENTS

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VIETNAM: Our Next Showdown

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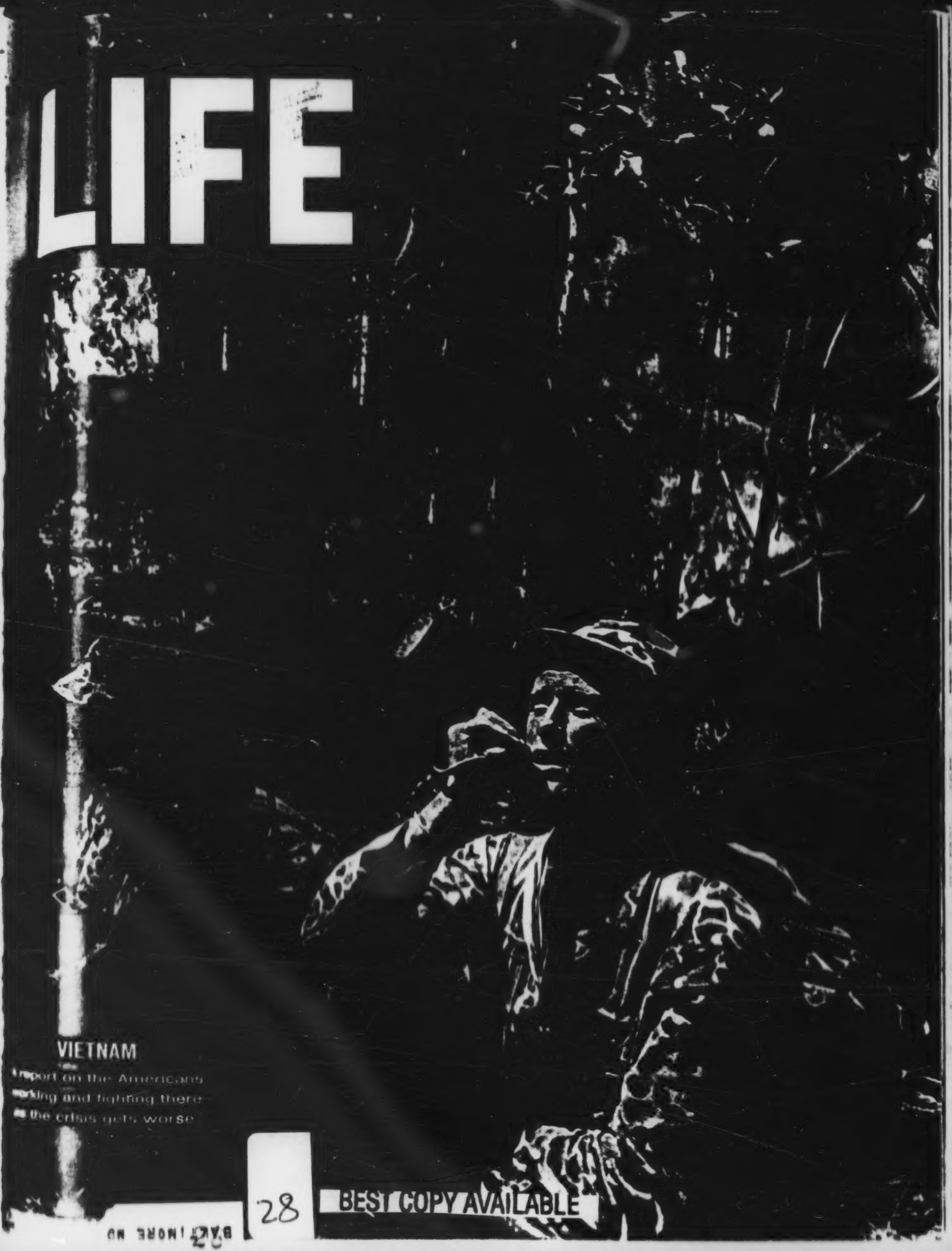

VIETNAM

A report on the Americans
working and fighting there
as the crisis gets worse

BALTIMORE MD

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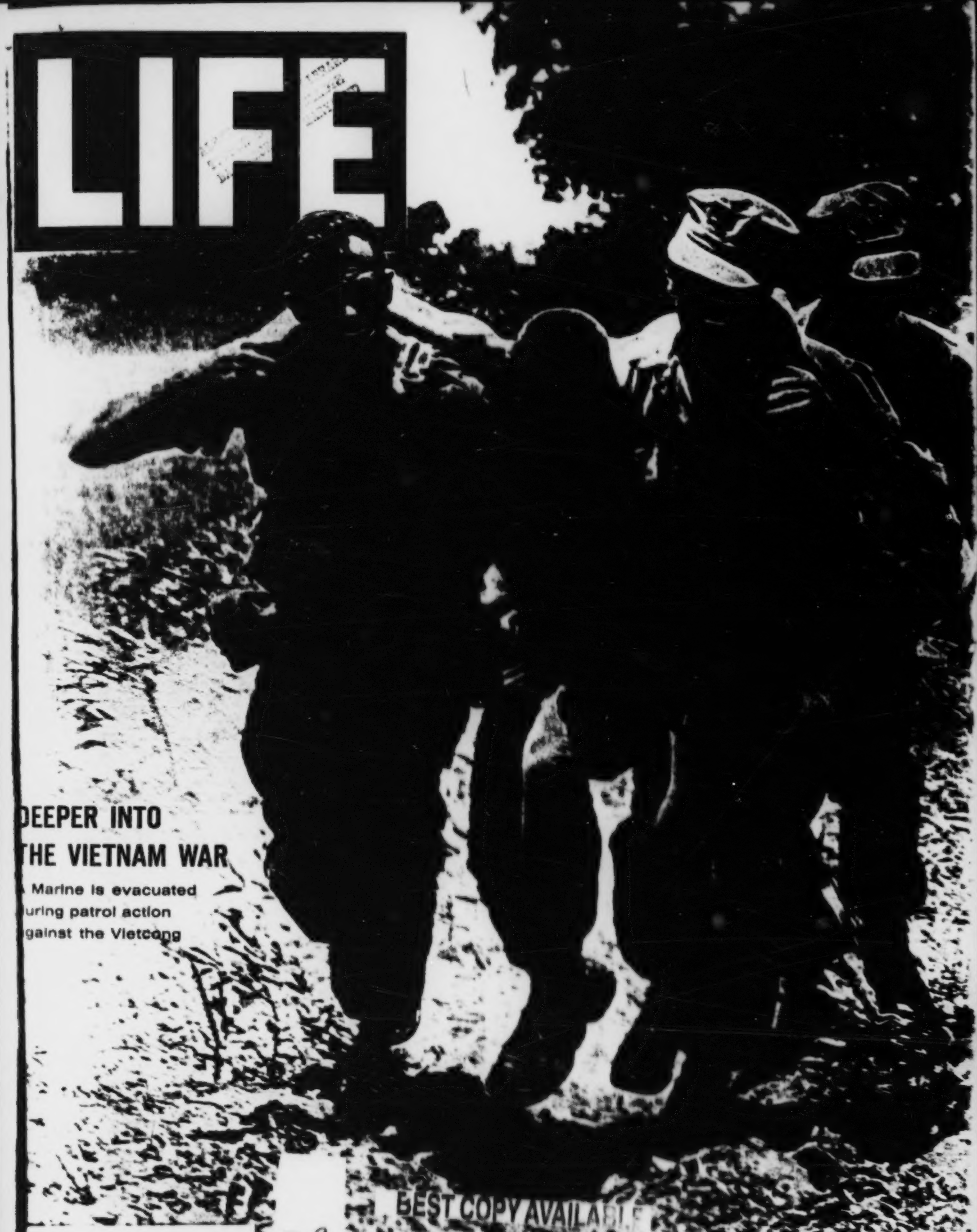

DEEPER INTO
HE VIETNAM WAR

Marine is evacuated
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gainst the Vietcong

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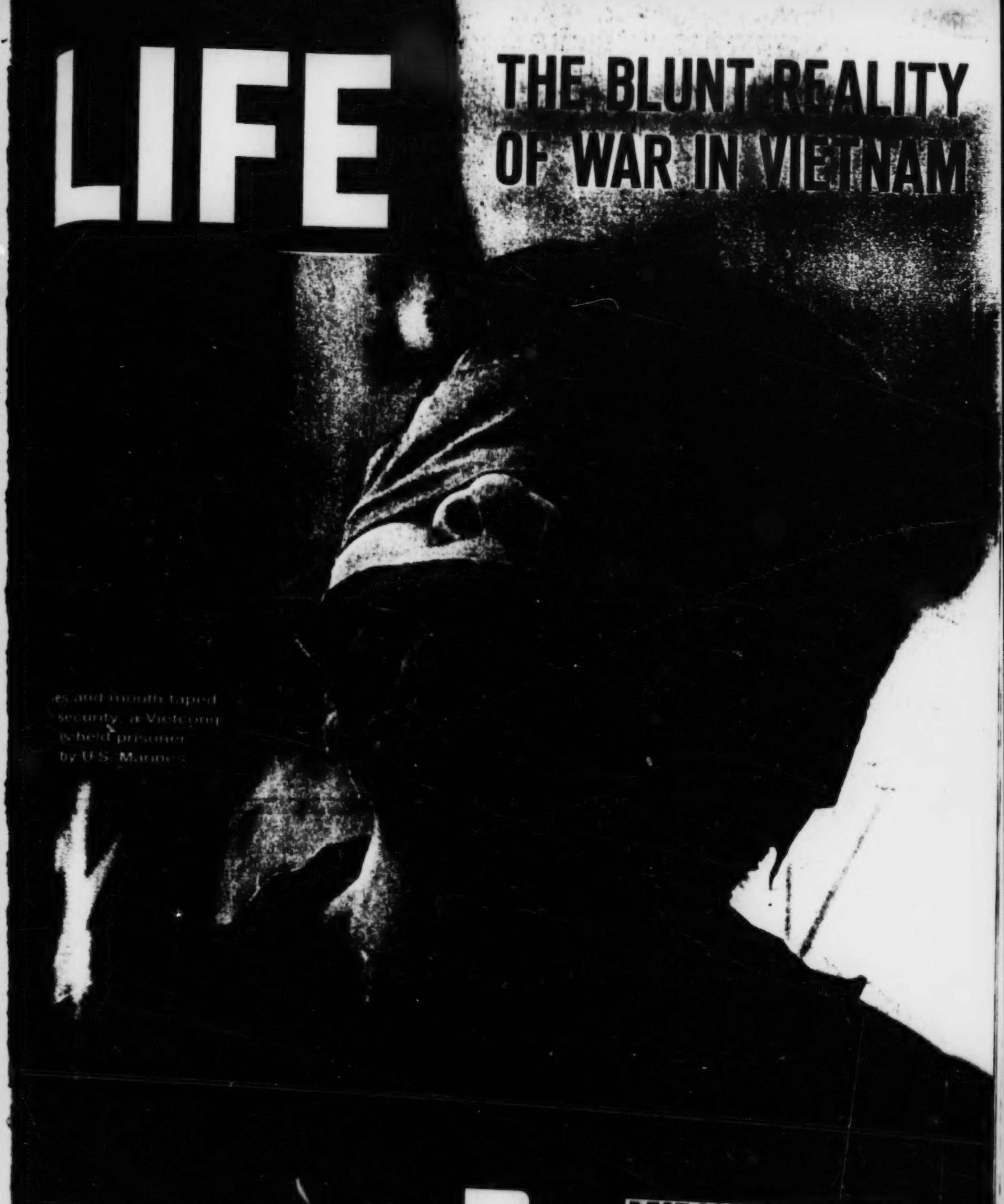
LIFE

THE BLUNT REALITY OF WAR IN VIETNAM



es and mouth taped
security, a Vietcong
is held prisoner
by U.S. Marines

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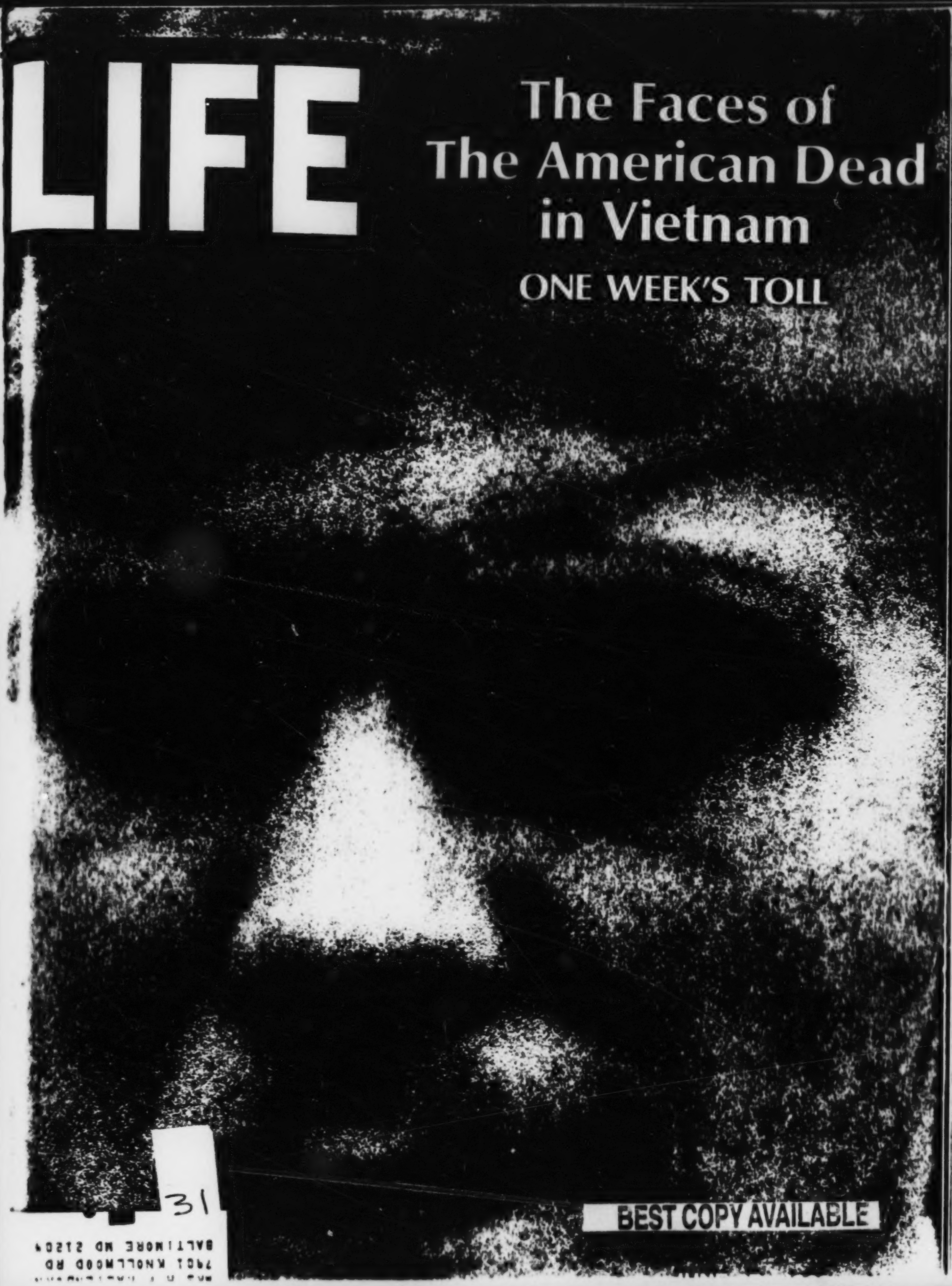

The Faces of The American Dead in Vietnam

ONE WEEK'S TOLL

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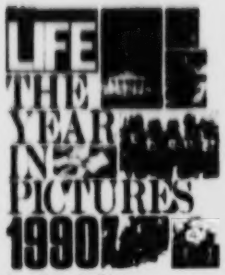
1991

The gulf war really got us going: Between February 25 and March 18, we published four weeklies in addition to the regular monthly issues. The year also saw us looking back at Pearl Harbor, and forward to something entirely different—life on Mars.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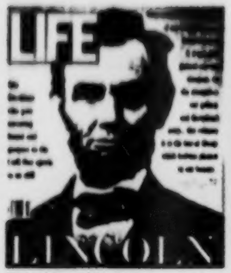
THE YEAR IN PICTURES 1990
Jan. Year in Pictures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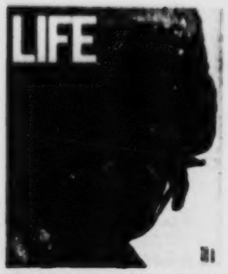
LINCOLN
Feb. Lincoln's lesson

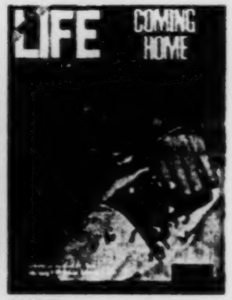


Mar. Capt. David Ray Smith

2/25 Gulf war

3/4 Desert Storm rages

3/11 Victory


LIFE
COMING HOME
3/18 The troops return

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Cohen v. San Bernardino Valley College: Employee Speech or Academic Freedom

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July 31, 1997

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ABSTRACT

Cohen v. San Bernardino Valley College: Employee Speech or Academic Freedom

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The scope of First Amendment protection afforded a university professor's speech has never been fully defined by the Supreme Court. Recently university have taken steps to discipline faculty members for certain types of in-class and out-of-class speech. Judicial resolution of these cases has largely ignored the questions of academic freedom and the university's interest as a public employer to sanction an instructor's speech.

In *Cohen v. San Bernadino Valley College*, the Ninth Circuit struck down a university's sexual harassment policy on grounds of unconstitutional vagueness and enjoined the institution from further disciplinary action against a professor who used sexually-charged speech in the teaching of a remedial English course. This paper argues that the Ninth Circuit erred in its application of the vagueness principle and its failure to address the rights of a university as a public employer to discipline the conduct and speech of an instructor. This paper also offers specific recommendations on law and policy in this free speech area.

Cohen v. San Bernardino Valley College: Employee Speech or Academic Freedom

INTRODUCTION

The scope of First Amendment protection afforded a university[1] professor's speech has never been fully defined by the Supreme Court.[2] Recently, universities have taken steps to discipline faculty members for certain types of in-class and out-of-class speech.[3] Judicial resolution of these cases has largely ignored the questions of academic freedom and the university's interest as a public employer to sanction an instructor's speech.[4] In *Harleston v. Jeffries*,[5] however, the Supreme Court vacated a Second Circuit decision upholding a faculty member's First Amendment right for racist speech made out-of-class and off-campus. Without comment on the First Amendment issue at stake in *Harleston*, the Court remanded the case to the Court of Appeals for further consideration in light of *Waters v. Churchill*,[6] a Supreme Court decision which upheld the dismissal of a public employee for workplace speech in a non-academic setting.[7] On reconsideration, the Second Circuit overturned its original decision and upheld the removal of Jeffries from his position as department chair in retaliation for his remarks.

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[1] The word university is used throughout this paper to mean a publicly-funded university or college.

[2] Cohen v. San Bernardino Valley College, No. 95-55936DC, CV 94-1083-RSWL (9th Cir. Aug. 19, 1996) at 6 [hereinafter Cohen, (9th Cir. Aug. 19, 1996)]; Stephen A. Newman, *At Work in the Marketplace of Ideas: Academic Freedom, The First Amendment, and Jeffries v. Harleston*, 22 J.C. & U.L. 281, 281 (1995).

[3] Silva v. University of New Hampshire, 888 F. Supp. 293 (D.N.H. 1994); Cohen, (9th Cir. Aug. 19, 1996); Harleston v. Jeffries, 115 S. Ct. 502 (1994); Levin v. Harleston, 966 F.2d 85 (2d Cir. 1992). *See e.g.*, Timothy E. Di Domenico, *Silva v. University of New Hampshire: The Precarious Balance Between Student Hostile Environment Claims and Academic Freedom*, 69 ST. JOHN'S L. REV. 609, 614-616 (1995); Donna Prokop, *Controversial Teacher Speech: Striking a Balance Between First Amendment Rights and Education Interests*, 66 S. CAL. L. REV. 2545, 2537 (1993).

[4] Di Domenico, *supra* note 3, at 619. Cohen, (9th Cir. Aug. 19, 1996) at 6-7; Newman, *supra* note 2, at 281; Richard H. Hiers, *New Restrictions on Academic Free Speech: Jeffries v. Harleston II*, 22 J.C. & U.L. 217, 218 (1995).

[5] 115 S. Ct. 502 (1994).

[6] 114 S. Ct 1878 (1994).

[7] Richard H. Hiers, *supra* note 4, at 218.

It is unclear whether the Court, in *Harleston*, meant to send the signal that certain types of academic speech can be legally sanctioned by a university. Two years later in *Cohen v. San Bernardino Valley College*, the Ninth Circuit Court of Appeals overturned a U.S. District Court decision that upheld a university's disciplinary action against a professor for violating the university's sexual harassment policy. Dean Cohen, a tenured professor at San Bernardino Valley College (SBVC), used a sexually-charged, confrontational teaching style in a remedial English class.[8] One student became offended by Cohen's profane and vulgar comments and his repeated focus on topics of a sexual nature.[9] She claimed that Cohen would look down her shirt and told her she would receive a better grade if she met him in a bar.[10] When Cohen assigned a "Define Pornography" paper, the student asked for an alternative assignment but was refused one.[11] Eventually the student stopped attending class and as a result received a failing grade.[12] She subsequently complained to the chair of the English department and ultimately filed a written sexual harassment complaint against Cohen.[13] Relying on the SBVC Grievance Committee findings, the President of the District concluded that Cohen had violated the sexual harassment policy by creating a hostile learning environment.[14] The complaint was appealed to the San Bernardino Community College Board of Trustees. The trustees concurred with the president's decision and instituted a disciplinary action against Cohen.[15] Cohen filed suit in federal district court against SBVC, the Board of Trustees, the Grievance Committee, and several school authorities for violation of his First Amendment rights. The district court dismissed the Board of Trustees and the Grievance Committee from the lawsuit and upheld the disciplinary action against Cohen.[16]

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[8] Cohen, (9th Cir. Aug. 19, 1996) at 3. Cohen v. San Bernardino Valley College, 883 F. Supp. 1407, 1410 (C.D. Cal. 1995), *rev'd*, (9 the Cir. Aug. 19, 1996).

[9] Cohen, (9th Cir. Aug. 19, 1996) at 3. Cohen, 883 F. Supp. 1407, 1410 (C.D. Cal. 1995).

[10] Cohen, 883 F. Supp. 1407, 1410 (C.D. Cal. 1995).

[11] Cohen, (9th Cir. Aug. 19, 1996) at 4. Cohen, 883 F. Supp. 1407, 1410 (C.D. Cal. 1995).

[12] *Id.*

[13] *Id.* Cohen taught the remedial English class in this case in the spring of 1992. The student filed a formal grievance against Cohen on May 12, 1993.

[14] Cohen, (9th Cir. Aug. 19, 1996) at 4-5. Cohen, 883 F. Supp. 1407, 1410-11 (C.D. Cal. 1995). On May 26, 1993, the SBVC Faculty Grievance Committee held a hearing to determine whether the complaint was well-founded. At the conclusion of the hearing the Committee found that Cohen had violated the sexual harassment policy. The Grievance Committee recommended disciplinary action to the President of the District. The president issued a ruling which agreed with the Committee's findings.

Without comment on the Supreme Court's decision in *Harleston*, the Ninth Circuit struck down the sexual harassment policy on grounds of unconstitutional vagueness, and enjoined the college from further disciplinary action against Cohen.[17] The court argued that a vague policy in the First Amendment context is unconstitutional because it fails to provide adequate notice of prohibited conduct, results in arbitrary and discriminatory application, and chills speech.[18] The harassment policy at issue in *Cohen* was drawn from the statutory framework of Title VII of the Civil Rights Act of 1964, which regulates workplace sexual discrimination, and Title IX of the Educational Amendments of 1972, which covers sexual discrimination in education.[19]

In light of *Harleston*, the Ninth Circuit's opinion offers an unsatisfactory analysis of the issue in *Cohen*. As a result, universities are left without clear guidelines in the implementation of disciplinary policies that cover certain types of faculty speech. The court said in *Cohen* that it would not decide "whether the College could punish speech of this nature if the Policy were more precisely construed by authoritative interpretive guidelines or if the College were to adopt a clearer and more precise policy. Rather, we hold that the Policy is simply too vague as applied to Cohen in this case."[20] With this case as a backdrop, this paper analyzes whether the *Cohen* court erred in its application of the vagueness principle and whether universities have a right to discipline instructors for certain types of sexually-charged classroom communication. Part I of this paper surveys the vagueness principle in case law. Part II analyzes the rights of a college as an employer to discipline the conduct and speech of an instructor. Part III examines the notion of a "hostile environment" in sexual harassment cases. Part IV discusses the idea of academic freedom in the classroom and explores Cohen's contention that his sexually-charged classroom speech is protected under the First Amendment. Part V offers specific recommendations on law and policy in this area.

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[15] Cohen, (9th Cir. Aug. 19, 1996) at 4-5. Cohen, 883 F. Supp. 1407, 1410-11 (C.D. Cal. 1995). On Nov. 17, 1993, the Board of Trustees found that Cohen engaged in sexual harassment which unreasonably interfered with an individual's academic performance and created an intimidating, hostile, or offensive learning environment. The Trustees ordered Cohen to (1) provide a syllabus concerning his teaching style, purpose, content, and method to his students at the beginning of class and to the department chair by certain deadlines; (2) attend a sexual harassment seminar within ninety days; (3) undergo a formal evaluation procedure in accordance with the collective bargaining agreement; and (4) become sensitive to the particular needs and backgrounds of his students, and to modify his teaching strategy when it becomes apparent that his techniques create a climate which impedes the students' ability to learn.

[16] Cohen, 883 F. Supp. 1407, 1421-22 (C.D. Cal. 1995).

[17] Cohen, (9th Cir. Aug. 19, 1996) at 3, 9.

[18] Cohen, (9th Cir. Aug. 19, 1996) at 7.

[19] Cohen, (9th Cir. Aug. 19, 1996) at 4; Di Domenico, *supra* note 3, at 612-613.

VOID-FOR-VAGUENESS DOCTRINE

The void-for-vagueness doctrine was first applied by the Supreme Court to regulatory or economic-control legislation in early part of the 20th century.[21] The Court's use of the vagueness doctrine in free speech cases did not become prevalent until the late 1940s and early 1950s.[22] Since then, the Court has put forth several reasons for implementing the vagueness doctrine. First, vague laws can trap the innocent by not providing a fair warning that the conduct is proscribed.[23] The Court has insisted that laws give a person of ordinary intelligence an adequate notice of the type of conduct prohibited.[24] However, the Court does not hold the statute to "mathematical certainty," and has made exceptions for laws that address a specific group of people.[25] Second, the Court has concluded that vague statutory language permits selective law enforcement and the denial of due process.[26] "[I]f arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them."[27] Third, a vague conduct statute that abuts the First Amendment can inhibit and chill individual expression. These statutes, therefore, demand greater precision and clarity than would be demanded in other contexts.[28] Because uncertain meanings require individuals to "'steer far wider of the unlawful zone' than if the boundaries of the forbidden areas were clearly marked,"[29] such statutes can infringe on protected areas of speech. Finally, criminal statutes require a higher standard of certainty than statutes involving civil sanctions.[30] A vague statute may be saved if a judicial interpretation can provide a definition as clear as those used in common law,[31] or if the statute can be limited to specific speech unprotected by the First Amendment.[32]

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[20] *Id.* at 7.

[21] A. G. A., *The Void-For-Vagueness Doctrine in the Supreme Court*, 109 U. PA. L. REV. 67, 74 n.38 (1960).

[22] *Id.*

[23] Grayned v. City of Rockford, 408 U.S. 104, 108 (1972).

While the Court is more tolerant of vague laws with civil rather than criminal sanctions, it applies strict judicial scrutiny to statutes that regulate individual rights, such as freedom of speech.[33] Under the strict scrutiny test, government must justify its regulation on the grounds that it serves a compelling state interest and that the least restrictive means were used to achieve that interest. The policy at issue in *Cohen* involved disciplinary actions by a government employer. After finding Cohen in violation of the SBVC sexual harassment policy, the Board of Trustees ordered Cohen to:

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[24] *Id.*

[25] Parker v. Levy, 417 U.S. 733, 756 (1974), held that military society is different from civilian society and thus Congress is "permitted to legislate both with greater breadth and with greater flexibility when prescribing the rules by which the (military) should be governed." See also: Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc., 445 U.S. 489, 500-01 (1982). The Court contended that a local ordinance was not unconstitutionally vague because it applied to a business person and a "business person of ordinary intelligence would understand" the terms and application of the law.

[26] Smith v. Goguen, 415 U.S. 566, 576 (1974).

[27] Grayned at 108.

[28] *Id.* Rita E. Tautkus, *Speech Regulation at the University of California: Void For Vagueness or Overbreadth?* 32 SANTA CLARA L. REV. 1259, 1270 (1992).

[29] Baggett v. Bullitt, 377 U.S. 360, 372 (1964).

[30] Kolender v. Lawson, 461 U.S. 352, 359, n.8 (1983).

[31] Rose v. Locke, 423 U.S. 48, 50-52 (1975).

[32] Chaplinsky v. State of New Hampshire, 315 U.S. 568, 573 (1942). Gooding v. Wilson, 405 U.S. 518, 522 (1972).

> 1. Provide a syllabus concerning his teaching style, purpose, content, and method to his students at the beginning of class and to the department chair by certain deadlines;
> 2. Attend a sexual harassment seminar within ninety days;
> 3. Undergo a formal evaluation procedure in accordance with the collective bargaining agreement; and
> 4. Become sensitive to the particular needs and backgrounds of his students, and to modify his teaching strategy when it becomes apparent that his techniques create a climate which impedes the students' ability to learn.[34]

Cohen was then advised that "further violation of the Policy would result in further discipline 'up to and including suspension or termination.'"[35] The Board also ordered that its decision be placed in Cohen's personnel file.[36] Although these actions may have serious effects on future employment opportunities, the discipline involved clearly would not be considered a criminal sanction by the judicial system. The SBVC sexual harassment policy, therefore, should not be held to the same degree of certainty required of criminal statutes.

The SBVC sexual harassment policy prohibited sexual harassment by employees of the college. The policy defined sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal, written, or physical conduct of a sexual nature. It includes, but is not limited to, circumstances in which:

> 1. Submission to such conduct is made explicitly or implicitly a term or condition of a student's academic standing or status.

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[33] Tautkus, *supra* note 28, at 1275. Smith v California, 361 U.S. 147, 151 (1959).

[34] Cohen, (9th Cir. Aug. 19, 1996) at 5. Cohen, 883 F. Supp. 1407, 1411 (C.D. Cal 1995).

[35] Cohen, (9th Cir. Aug. 19, 1996) at 6.

[36] *Id.*

> 2. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile, or offensive learning environment.
> 3. Submission to or rejection of such conduct is used as the basis for academic success or failure.[37]

SBVC concluded that Cohen's teaching methods created a "hostile learning environment" in violation of the college's sexual harassment policy.[38] The Ninth Circuit held that the terms of the policy were unconstitutionally vague as applied to Cohen. Cohen's speech, the court contended, "did not fall within the core region of sexual harassment as defined by the Policy."[39]

When government regulations touch upon freedom of speech, special clarity is demanded.[40] The regulation must be drafted more narrowly so that it is limited to conduct that is the legitimate interest of the government.[41] Stricter standards of statutory vagueness are applied in these cases because the regulation has the potential to restrict expression on the basis of content. Content-based government statutes demand strict scrutiny.[42] "Government's ability to impose content-based burdens on speech raises the specter that the Government may effectively drive certain ideas or viewpoints from the marketplace."[43] The exclusion of ideas from the marketplace may not be based on content alone unless the strict scrutiny standard is met or the speech prohibited falls into a category not accorded the full protection of the First Amendment.[44] Marketplace restrictions on speech must overcome strong barriers because in the public forum free speech values are maximized.[45] The public forum concept has been used to extend the reach of First Amendment protection.[46] At the heart of the First Amendment is the belief that open public debate among citizens deserves the utmost protection against government interference.[47] In places traditionally devoted to or explicitly designated for public assembly and debate, "the rights of the State to limit expressive activity are sharply circumscribed."[48] Government regulations that inhibit the free flow of ideas and opinions in these "quintessential public forums" must, therefore, meet the strictest of standards.[49]

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[37] *Id.*, at 4.

[38] *Id.*, at 6.

[39] *Id.*, at 7.

[40] Smith, at 573. JEROME A. BARRON & C. THOMAS DIENES, FIRST AMENDMENT LAW IN A NUT SHELL, 45 (1993).

[41] BARRON, *supra* note 40, at 46.

[42] *Id.*, at 193.

[43] Simon & Schuster v. New York State Crime Victims Board, 19 Med. L. Rptr. 1609, 1614 (1991).

[44] BARRON, *supra* note 40, at 195.

In *Perry Educ. Assn. v. Perry Local Educators' Assn*, the Court recognized two additional categories of public forums—the limited public forum and the nonpublic forum. A state creates a limited public forum if it opens up a piece of government property to the public at large for assembly and speech. "[A] State is not required to indefinitely retain the open character of the facility," but as long as it does so it is bound by the strict scrutiny standard.[50] Nonpublic forums, on the other hand, are publicly owned facilities that have been dedicated for communicative or noncommunicative purposes, "but that have never been designated for indiscriminate expressive activity by the general public."[51]

> Implicitly in the concept of the nonpublic forum is the right to make distinctions in access on the basis of subject matter and speaker identity. These distinctions may be impermissible in a public forum but are inherent and inescapable in the process of limiting a nonpublic forum to activities compatible with the intended purpose of the property. The touchstone for

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[45] Perry Ed. Assn. v. Perry Local Ed. Assn., 460 U.S. 37, 45 (1983).

[46] *Id.*

[47] Whitney v. California, 274 U.S. 357, 375-376 (1927). New York Times v. Sullivan, 376 U.S. 254, 270 (1964).

[48] Perry at 45.

[49] *Id.*

[50] *Id.*

[51] RODNEY A. SMOLLA, FREE SPEECH IN AN OPEN SOCIETY 210 (1992).

> evaluating these distinctions is whether they are reasonable in light of the purpose which the forum at issue serves.[52]

In *Perry*, a school district's mail facilities were considered a nonpublic forum because the school district had never opened its mail system to "indiscriminate use by the general public."[53] Even though the school district allowed outside organizations to use its facilities, the Court held that "selective access does not transform government property into a public forum."[54] In *United States Postal Service v. Council of Greenburgh*, the Court recognized that the "First Amendment does not guarantee access to property simply because it is owned or controlled by the government."[55]

The speech at issue in *Cohen* was in-class communication. The SBVC sexual harassment policy prohibited employee conduct, including speech, that unreasonably interfered with an individual's academic performance or created an intimidating, hostile, or offensive learning environment.[56] The policy, which has the potential to restrict speech on the basis of content, does not raise the "specter that Government may effectively drive certain ideas or viewpoints from the marketplace."[57] Cohen's classroom by tradition and designation is not an open or limited forum for public communication, and Cohen's speech is not an indiscriminate expressive activity. Cohen's classroom is a nonpublic forum that was not open for indiscriminate use by the general public. As a nonpublic forum, Cohen's classroom activities are not governed by the strict scrutiny standard and may be limited by the government so long as the limitations are compatible with the intended purpose of the classroom. The Court has concluded that the "State, no less than a private owner of property, has power to preserve the property under its control for the use to which it is lawfully dedicated."[58]

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[52] Perry at 49.

[53] Perry at 47.

[54] *Id.*

[55] United States Postal Service v. Council of Greenburgh, 453 U.S. 114, 129 (1981).

[56] Cohen, (9th Cir. Aug. 19, 1996) at 4.

[57] Simon at 1614.

In the nonpublic forum, free speech values are minimized because open public assembly and debate are not an issue here. Regulations, therefore, no longer touch upon sensitive areas of protected speech as ample alternative channels exist outside the nonpublic forum for free speech activity. In this environment, where entire classes of speech may be excluded[59] and government regulation is largely upheld,[60] the void-for-vagueness doctrine does not apply. The vagueness doctrine is concerned with the facial validity of the law.[61] It operates on the belief that legislatures are "capable of drafting the law more narrowly so that it is limited to conduct that is the legitimate concern of government."[62] Policies governing the use and activities of nonpublic forum are, by their nature, limited in physical as well as regulatory scope to specific actions and behaviors in specific places. Because of its limited physical scope, a policy governing a nonpublic forum affects fewer people and is, therefore, less likely to be misunderstood or selectively enforced than a government statute that is applied to the public at large. Where a policy is limited to a specific group of people, the Court has permitted less clarity and precision than in other contexts.[63] In *Parker v. Levy*, the Court reversed a Third Circuit ruling that held Article 133 of the military code void for vagueness. Article 133 prohibits "conduct unbecoming an officer or gentleman." The Court held that the phrase "'void for vagueness' simply means that criminal responsibility should not attach where one could not reasonably understand that his contemplated conduct is proscribed; in determining the sufficiency of such notice, a statute must of necessity be examined in the light of the conduct with which a defendant is charged."[64] An examination of the SBVC sexual harassment policy in light of Cohen's conduct and his repeated focus on topics of a sexual nature would leave few persons of ordinary intelligence guessing as to whether Cohen's conduct is proscribed by the policy.

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[58] Adderley v. Florida, 385 U.S. 39, 47 (1966).

[59] SMOLLA, *supra* note 51, at 211.

[60] BARRON, *supra* note 40, at 207.

[61] *Id.*, at 45.

[62] *Id.*, at 46.

[63] *See* note 25 and accompanying text.

In *Parker*, the Court applied the vagueness standard specifically to military personnel. Under that rationale, it would be hard to contend that faculty members of ordinary intelligence were left without clear guidance as to whether Cohen's conduct was prohibited by the sexual harassment policy. Furthermore, the Court has "repeatedly expressed its reluctance to strike down a statute on its face where there were a substantial number of situations to which it might be validly applied."[65] The Court said that "even if there are marginal applications in which a statute would infringe on First Amendment values, facial invalidation is inappropriate if the 'remainder of the statute . . . covers a whole range of easily identifiable and constitutionally proscribable . . . conduct.'"[66] The SBVC sexual harassment policy covers a wide range of conduct that is easily identifiable and constitutionally proscribable.

The void-for-vagueness argument is further invalidated when the speech restriction in question applies to public employees. In *Waters v. Churchill*, the Court held that speech restrictions governing public employee speech "must be treated differently with regard to procedural requirements."[67] A public employer, for example, may prohibit its employees from being "rude to customers." Although this standard is too vague when applied to the general public, the regulation is consistent with the First Amendment when applied to government employee speech.[68] In light of the fact that the policy in *Cohen* restricted the

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[64] Parker at 757.

[65] *Id.*, at 760.

[66] *Id.*

[67] Waters v. Churchill, No. 92-1450, slip op. at 10 (1994).

[68] *Id.*

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conduct of a specific group of government employees speaking in a nonpublic forum and that the violation imposed did not involve criminal sanctions, the Ninth Circuit Court erred when it applied the void-for-vagueness doctrine to SBVC sexual harassment policy. The Court has clearly spoken that the vagueness doctrine should not be applied in cases of this nature.

PUBLIC EMPLOYER V. PUBLIC EMPLOYEE

In *Cohen v. San Bernardino Valley College*, the U.S. District Court held that "[e]ven if the sexual harassment policy at issue here would have been considered impermissibly vague or overboard if applied to the public at large, . . . the College as a public employer has greater substantive and procedural power to regulate its employees' speech," and, therefore, the policy is "not invalid on its face."[69] This holding is consistent with the Supreme Court's findings in *Pickering v. Board of Education*. In *Pickering*, the Court recognized that the "State has interests as an employer in regulating the speech of its employees."[70] The problem, the Court contended, is to "arrive at a balance between the interest of the teacher, as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees."[71] In *Pickering*, the Court defined two areas where the government's interest as an employer would be given priority. If a teacher's speech impeded the "proper performance of his daily duties in the classroom" or interfered with "the regular operation" of the school, the government's disciplinary interests as an employer would be given greater weight than the employee's free speech claim.[72]

The Court followed this line of reasoning in *Arnett v. Kennedy* when it held:

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[69] Cohen, 883 F. Supp. 1407, 1421 (C.D. Cal. 1995).

[70] Pickering v. Board of Education, 391 U.S. 463, 568 (1968).

[71] *Id.*

[72] *Id.*, at 572-73.

> [T]he government, as an employer, must have wide discretion and control over the management of its personnel and internal affairs. This includes the prerogative to remove employees whose conduct hinders efficient operation. . . . Prolonged retention of a disruptive or otherwise unsatisfactory employee can adversely affect discipline and morale in the work place, foster disharmony, and ultimately impair the efficiency of an office or agency.[73]

In *Connick v. Myers*, the Court emphasized that when close working relationships are required to fulfill public responsibilities, "a wide degree of deference to the employer's judgment is appropriate."[74] Furthermore the Court said that a government employer need not allow disruption of the workplace and destruction of working relationships before taking action.[75]

On July 20, 1991, Professor Leonard Jeffries, Jr., made anti-Semitic and racist remarks in a public address at the Empire State Black Arts and Cultural Festival. Public reaction to the speech was intense.[76] "Political leaders called for Jeffries' dismissal. Even Mario Cuomo, then-governor of New York State, called upon the City College to 'take action or explain why it doesn't.'"[77] In March 1992, Jeffries was removed from his job as chair of the Black Studies Department, and later filed suit in federal court, challenging the action as a violation of his First Amendment rights. He prevailed in trial court and won again when the university appealed to the Second Circuit Court. In 1994, the Supreme Court vacated the decision and remanded the case to the Second Circuit for further consideration in light of *Waters v. Churchill*. On remand, the Court of Appeals dismissed Jeffries' claim.

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[73] Arnett v. Kennedy, 416 U.S. 134, 168 (1974).

[74] Connick v. Myers, 461 U.S. 138, 151-52 (1983).

[75] *Id.*, at 152.

[76] Newman, *supra* note 2, at 284.

[77] *Id.*

"Jeffries owed his sudden reversal of fortune to a developing area of free speech law."[78] In *Waters*, the Court clarified the Pickering-Connick balancing test and drew a distinct line between government's role, as an employer, in regulating the speech of its employees and government's role, as government, in regulating the speech of the public at large. The Court held that for speech by a government employee to be protected by the First Amendment, it "*must be* on a matter of public concern, and that the employee's interest in expressing herself on this matter must not be outweighed by any injury the speech could cause to '"the interest of the State, as an employer, in promoting the efficiency of the public service it performs through its employees."'"[79] The Court has "always assumed . . . that the government as an employer . . . has *far broader powers* than does the government as a sovereign. To begin with, even many of the most fundamental maxims of our First Amendment jurisprudence cannot reasonably be applied to speech by government employees."[80] Citing the landmark freedom of speech cases *Whitney v. California*,[81] *Cohen v. California*,[82] and *New York Times v. Sullivan*,[83] the Court drew clear distinctions between the freedom accorded the public at large and freedom accorded public employees. Public employees, the Court said, do not have the same degree of freedom as the general public to use offensive speech, spread false ideas, criticize government officials, and participate in political campaigns.[84] In language applicable to *Cohen*, the Court said, "The First Amendment demands a tolerance of 'verbal tumult, discord, and even offensive utterance,' as 'necessary side effects of . . . the process of open debate.'

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[78] *Id.*, at 287.

[79] Waters v. Churchill, No. 92-1450, slip op. at 5. (Emphasis added).

[80] *Id.*, at 9. (Emphasis added.)

[81] 274 U.S. 357 (1927).

[82] 403 U.S. 15 (1971).

[83] 376 U.S. 254 (1964).

[84] Waters, at 9-10.

But we have never expressed doubt that a government employer may bar its employees from using . . . offensive utterances to members of the public or the people with whom they work."[85]

The *Pickering*, *Connick*, and *Waters* analysis was adopted by the Eight Circuit to uphold the removal of certain photographs from a display case at the University of Minnesota at Duluth. In *Burnham v. Ianni*, the court said that the chancellor's decision to suppress certain non-verbal expressive conduct by faculty members did not violate the First Amendment.[86] Dissenting in *Burnham*, Circuit Judge Beam argued that *Pickering*, *Connick*, and *Waters* were inapplicable to the case because the speech at issue in *Burnham* did not affect workplace efficiency and harmony.[87] According to Beam, employee speech must affect the "morale of the work force and damage the program's reputation" before it can be suppressed. In language which would uphold the regulation of speech in *Cohen*, Beam contended, "I do not believe that an employer must unreasonably endure dissident and offensive speech without recourse simply because of the First Amendment. As noted in *Waters*, however, the government employer must make a substantial showing that the speech is, in fact, disruptive before it may be punished."[88] In *Waters* as well as in the subsequent cases that led to *Waters*, the Court sent a strong message that the type of conduct and language used by Cohen in the classroom is clearly without First Amendment protection. In this regard, the U.S. District Court was correct in its initial holding of the case. Consequently, the Ninth Circuit erred in its reversal of that holding.

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[85] *Id.*, at 9.

[86] Burnham v. Ianni, No. 95-1962 (8th Cir. Oct. 16, 1996) at 12.

[87] *Id.*, at 22.

[88] *Id.*, at 23.

HOSTILE ENVIRONMENT

In the area of sexual harassment, two administrative codes have precedent—Title IX of the 1972 Educational Amendments and Title VII of the 1964 Civil Rights Act. Title IX, which governs sexual discrimination in the educational context, has been used in cases involving female students who were confronted with quid pro quo sexual discrimination.[89] In *Alexander v. Yale University*,[90] the Second Circuit dismissed a sexual harassment lawsuit on grounds that graduation mooted the claim of the students.[91] *Alexander*, the first suit of this kind, was handed down before the Supreme Court defined the reach of Title IX in area of the sexual harassment. Since *Alexander*, the Court has concluded that a Title IX sexual harassment claim can be brought by a private right of action against any program within an educational institution that receives federal funds.[92] Such claims extend to issues of sexual discrimination in the hiring, promotion, or firing of faculty as well as sexual harassment of female staff, faculty, and student workers.[93] However the Supreme Court has never explicitly applied Title IX to a hostile environment cause of action.[94] Furthermore, a Title IX suit can only be brought against the institution and not the individual who sexually harasses the student.[95] "The basis for institutional liability must be evidenced by the institution's failure to establish adequate, reasonable procedures for processing complaints of sexual harassment, or for failing to follow through in the enforcement of such complaints."[96] Under the present definition of Title IX, the Court would reject a sexual harassment claim brought against an instructor for creation of a hostile environment, and, in this regard, Title IX has no direct bearing on the *Cohen* case.

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[89] Di Domenico, *supra* note 3, at 611.

[90] 631 F.2d 178 (2d Cir. 1980).

[91] Elaine D. Ingulli, *Sexual Harassment in Education*, 18 RUTGERS L.J. 281, 290.

[92] *Id.*, at 290- 91.

[93] *Id.*, at 291.

[94] Di Domenico, *supra* note 3, at 619.

[95] Ingulli, *supra* note 88, at 292.

[96] *Id.*

The majority of sexual harassment cases involve workplace discrimination and are litigated under Title VII of the 1964 Civil Rights Act. Title VII makes it "an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin."[97] The Supreme Court addressed the issue of sexual harassment in the workplace for the first time in *Meritor Savings Bank v. Vinson*.[98] In *Meritor*, the Court adopted the Equal Employment Opportunity Commission's (EEOC) definition of the forms of sexual discrimination prohibition by Title VII. The EEOC's definition, which was outlined in a set of administrative guidelines issued in 1980, held that sexual harassment included the creation of "an intimidating, hostile, or offensive working environment."[99] These guidelines established "the right to work in an environment free from discriminatory intimidation, ridicule, and insult."[100] Although the Court explained that the guidelines were not "'controlling upon the courts by reason of their authority,'" it contended that such guidelines do "'constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance.'" "Since the Guidelines were issued, courts have uniformly held, and we agree, that a plaintiff may establish a violation of Title VII by proving that discrimination based on sex has created a hostile or abusive work environment."[101] Furthermore, the Court concluded that the phrase "terms, conditions, or privileges of employment" in Title VII included the "'entire spectrum of disparate treatment of men and women' in employment."[102]

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[97] 42 U.S.C. § 2000e-2(a)(1).

[98] 477 U.S. 57 (1986).

[99] *Id.*, at 65.

[100] *Id.*

[101] *Id.*, at 66.

In *Harris v. Forklift Systems*,[103] the Court expanded the Title VII protection against a hostile work environment to include severe or pervasive discriminatory conduct that *does not* seriously affect the psychological well-being of the plaintiff.[104] According to the Court, a hostile work environment "can be determined only by looking at all the circumstances. These may include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance."[105] The Court held that "Title VII comes into play before the harassing conduct leads to a nervous breakdown. A discriminatory abusive work environment, even one that does not seriously affect employees' psychological well-being, can and often will detract from employees' job performance, discourage employees from remaining on the job, or keep them from advancing in their careers."[106]

Taken together, *Meritor* and *Harris* provide a strong defense of the EEOC regulations that outlaw sexual harassment as a form of sex discrimination under Title VII. In applying Title VII principles, EEOC regulations state that employers are "responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence."[107] According to the EEOC, sexual harassment in the workplace includes conduct between fellow employees as well as between non-employees and employees.[108] EEOC regulations conclude that "[p]revention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, . . . and developing methods to sensitize all concerned."[109]

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[102] *Id.*, at 64.

[103] 114 S. Ct. 367 (1993).

[104] *Id.*, at 370-71. (Emphasis added.)

[105] *Id.*, at 371.

[106] *Id.*, at 370-71.

[107] 29 C.F.R. § 1604.11

The harassment policy and subsequent disciplinary action at issue in *Cohen* was developed according to the principles set forth by the federal government. Under Title IX, the government can hold a university liable for the failure to "adopt and communicate procedures for dealing with the problems of sexual harassment."[110] Title VII, as defined by the Court and EEOC regulations, clearly outlaws the type of conduct at issue in *Cohen*. However, Title VII of the 1964 Civil Rights Act applies specifically to workplace sexual harassment among employees. According to EEOC guidelines, "An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace."[111] In this context, if an employer is responsible, under Title VII, for the sexually discriminatory conduct of a non-employee, over whom the employer has no direct disciplinary control, then an employer should also be responsible for the sexually discriminatory conduct of an employee, over whom the employer has direct disciplinary control. Such a situation is especially substantive when, as in *Cohen*, SBVC (the employer) required the student (a non-employee) to interact with Cohen (the employee) for a substantial length of time. If the student refused, she would suffer a financial loss at the hand of SBVC as well as a set back in her educational pursuits. In this regard, the classroom student is similar to a captive audience member.

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[108] *Id.*

[109] *Id.*

[110] Ingulli, *supra* note 88, at 292.

[111] 29 C.F.R. § 1604.11

Speech rights have been limited by the Court in captive audience situations involving substantial privacy interests.[112] In *Robinson v. Jacksonville Shipyards, Inc.*, a Florida District Court held that female workers "are a captive audience in relation to the speech that comprises the hostile work environment."[113] "'Few audiences are more captive than the average worker. . . . Certainly, if employer-employee relations involve sufficient coercion that we justify regulation in other contexts, then this coercion does not suddenly vanish when the issue is submission to racist or sexist speech.'"[114] Workers and students are captive audience members because they must endure sexist speech until such time as they can find a new job or transfer to another class. In the case of *Cohen*, no opportunity for transfer existed because no other teacher taught English 015 at that time. Therefore, the student either had to complete the class or suffer a financial loss as well as a set back in her program. Under these conditions, the student's situation becomes analogous to the worker's situation in *Robinson*, and, therefore, Title VII protections should apply.

ACADEMIC FREEDOM AND THE FIRST AMENDMENT

When Dean Cohen was accused of violating the SBVC sexual harassment policy, he argued that his right to academic freedom prevented the college from punishing his classroom speech.[115] The idea of academic freedom was first referred to by the Court in a dissent by Justice Douglas in *Adler v. Board of Education.*[116] Justice Douglas argued that the "very threat" that a teacher may be called upon to defend past memberships and associations "is certain to raise havoc with academic freedom."[117] Eleven months later, in

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[112] David M. Jaffee, *Walking the Constitutional Tightrope: Balancing title VII Hostile Environment Sexual Harassment Claims with Free Speech Defenses*, 80 MINN. L. R. 979, 1006 (1996).

[113] 760 F. Supp. 1486, 1535 (M.D. Fla. 1991).

[114] *Id.*

[115] Cohen, 883 F. Supp. 1407, 1412 (C.D. Cal. 1995).

[116] 342 U.S. 485 (1952).

[117] Adler, at 509. At issue in *Adler* as well as the six academic freedom cases that followed was the right of the state to obtain adequate assurance that an employee, namely a teacher, was not engaged in subversive

Wieman v. Updegraff,[118] the Court ostensibly reversed its holding in *Adler* and declared a state loyalty oath unconstitutional without referring directly to academic freedom or the First Amendment rights of speech or association.[119] It wasn't until *Sweezy v. New Hampshire*[120] that the Court called upon the notion of academic freedom to resolve a subversive activities case. At issue in *Sweezy* was the constitutional limits of the government's inquiry into the political beliefs and associations of its citizens. Part of the government's investigation focused on Sweezy's lectures at the University of New Hampshire. The Court held that the investigation was "an invasion of petitioner's liberties in the areas of academic freedom and political expression."[121]

> To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation. No field of education is so thoroughly comprehended by man that new discoveries cannot yet be made. . . . Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.[122]

Ten years after *Sweezy*, in *Keyishian v. Board of Regents*,[123] the Court incorporated the concept of academic freedom within the guarantees of the First Amendment. "Our Nation is deeply committed to safeguarding academic freedom," the Court argued. "That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."[124] In *Keyishian*,

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activity. The statutes at issue in these cases stem from the McCarthy era fear that members of the Communist Party were infiltrating public employment in public schools. The Court eventually declared such statutes unconstitutional when the statute failed to distinguish between innocent and knowing subversive membership.

[118] 344 U.S. 183 (1952).

[119] Richard H. Hiers, *supra* note 4, at 219-20.

[120] 354 U.S. 234 (1957)

[121] *Id.*, at 250.

[122] *Id.*

[123] 385 U.S. 589 (1967).

[124] *Id.*, at 603.

the Court feared that the threat of sanctions may chill academic speech and inhibit scholarship.[125]

Sweezy and *Keyishian* are the Court's landmark academic freedom cases.[126] Three additional academic freedom cases were decided during this time.[127] In the resolution of all three cases, the Court relied on the precedent it set in *Sweezy* and later in *Keyishian*. In each case, the infringement on faculty interests came from McCarthy era state statutes aimed at barring potential "subversives" from the faculties of public schools and universities. Some cases involved the disclosure of organizational memberships both past and present and others involved state-imposed loyalty oaths or affidavits. All were unconstitutional under the First Amendment guarantees of speech and association regardless of the constitutional status afforded the Court's newly articulated concept of academic freedom.

In 1972, the Court returned to *Sweezy* and *Keyishian* to uphold the right of a group of college students to organize a local chapter of Students for a Democratic Society. In *Healy v. James*, the Court said, "The mere disagreement of the President with the group's philosophy affords no reason to deny it recognition. . . . The College, acting here as the instrumentality of the State, may not restrict speech or association simply because it finds the views expressed by any groups to be abhorrent."[128] However, the Court drew a distinct line between the constitutional right to speech and association, which students and faculty both retain within the academic community, and the power of the university to enforce its rules and regulations. "'We . . . hold that a college has the inherent power to promulgate rules and regulations; that it has the inherent power properly to discipline; that it has power appropriately to protect itself and its property. . . .'"[129] Lower courts have applied this line of reasoning to uphold a university's right to review the teaching methods of its faculty and to institute disciplinary procedures, including dismissal, when necessary.

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[125] *Id.*, at 603-04.

[126] Richard H. Hiers, *supra* note 4, at 224.

[127] Shelton v. Tucker, 364 U.S. 479 (1960). Baggett v. Bullitt, 377 U.S. 360 (1964). Whitehill v. Elkins, 389 U.S. 54 (1967).

[128] 408 U.S. 169, 187 (1972).

In *Hetrick v. Martin*, the Sixth Circuit Court upheld the dismissal of a nontenured teacher because her teaching philosophy was incompatible with the "pedagogical aims of the University."[130] The court said, "Whatever may be the ultimate scope of the amorphous 'academic freedom' guaranteed to our Nation's teachers and students, it does not encompass the right of a nontenured teacher to have her teaching style insulated from review by her superiors."[131] Several similar cases exist. In two separate decisions, the Fifth Circuit Court allowed the dismissal of two university teachers, one for "continual lack of cooperation and unacceptable conduct,"[132] and the other for "abusive use of profanity in the classroom."[133] Relying on *Connick v. Myers*,[134] the court said that the "limits of first amendment protection of speech afforded public employees . . . is to prevent suppression of such employees' participation in public affairs and 'chilling' of their freedom of political association."[135] In *Carley v. Arizona*, the Court of Appeals of Arizona held that "[a]cademic freedom is not a doctrine to insulate a teacher from evaluation by the institution that employs him."[136] The Sixth Circuit Court carried the analysis one step further when it upheld the right of university officials to enter a professor's classroom and interrupt the class with shouted commands and criticisms of the professor's teaching skills. Such behavior, the court said, was unprofessional but did not violate the instructor's First Amendment right to academic freedom.[137]

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[129] *Id.*, at 192.

[130] 480 F.2d. 705, 709 (1973).

[131] *Id.*

[132] Hillis v. Stephen F. Austin State University, 665 F.2d. 547, 552 (5th Cir. 1982).

[133] Martin v. Parrish, 805 F.2d. 583, 583 (5th Cir. 1986).

[134] 461 U.S. 138 (1983). *See* note 74 and accompanying text.

[135] Martin, at 584.

[136] 737 P.2d. 1099, 1103 (Ariz. App. 1987).

> It has long been recognized that the purpose of academic freedom is to preserve the 'free marketplace of ideas' and protect the individual professor's classroom method from the arbitrary interference of university officials. University administrators, however, are free to observe, review or evaluate a nontenured professor's competence. Moreover, because public education in America is committed to the control of local and state authorities, the courts cannot intervene to resolve educational conflicts that do not 'sharply implicate basic constitutional values.'"[138]

In 1985, the Supreme Court expressed a reluctance to intervene in academic review decisions. "If a 'federal court is not the appropriate forum in which to review the multitude of personnel decisions that are made daily by public agencies,' far less is it suited to evaluate the substance of the multitude of academic decisions that are made daily by faculty members of public educational institutions."[139] According to the Court, "[a]cademic freedom thrives not only on the independent and uninhibited exchange of ideas among teachers and students, but also . . .on autonomous decision making by the academy itself."[140]

Academic freedom or the broad autonomy to engage in unfettered intellectual inquiry and scholarship has been strongly upheld by the Court in a line of cases beginning *with Sweezy*. These cases involved political expression and as a result invoked the First Amendment protections of speech and association. Because of the Court's ambiguous use of academic freedom and freedom of speech, professors are quick to assert these defenses when disciplined for speech-related activities and conduct. Although the Court has neglected to define the scope of academic freedom and whether such a constitutional freedom exists under the First Amendment, it has addressed the scope of that freedom in relation to the disciplinary power of a university. The Supreme Court as well as several lower courts have concluded that a university has the right to enact and enforce rules and regulations governing an instructor's professionalism and performance in the classroom. This line of reasoning is further supported by cases concerning a public employer's right to discipline the speech of a public employee. Under the line of reasoning in these decisions, academic freedom does not afford Dean Cohen's classroom speech immunity from evaluation and subsequent disciplinary actions by the university. On the contrary, these decisions have explicitly given the university the right to enforce its rules and regulations and properly discipline its instructors.

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[137] Parate v. Isibor, 868 F.2d 821, 831 (6th Cir. 1989).

[138] *Id.*, at 830.

[139] Regents of University of Michigan v. Ewing, 474 U.S. 214, 226 (1985).

[140] *Id.*, at 226, n. 12.

CONCLUSION

A growing body of law exists that gives public universities the legal power to evaluate and discipline, if necessary, the classroom performance of its faculty. Such disciplinary actions are protected by the Court's decisions in *Pickering v. Board of Education*, *Connick v. Myers*, and, most recently, *Waters v. Churchill*. These cases draw specific distinctions between the First Amendment freedom accorded the public at large and First Amendment freedom accorded public employees.[141] In *Waters*, the Court concluded that public employees do not have the same degree of freedom as the general public to use offensive speech, spread false ideas, criticize government officials, and participate in political campaigns. While this language provides the foundation on which universities can legitimize policy decisions that prohibit certain types of conduct, the real challenge lies in the enactment and enforcement of such policies.

Policies, such as the one at issue in *Cohen* which includes speech, must be drafted narrowly so that it limits only the conduct that is the legitimate interest of the university. The Court has provided its strongest protection for individual rights and, as a result, demands greater precision and clarity of policies that abut First Amendment freedoms. Imprecise language and unclear meanings, the Court concluded, require individuals to "'steer far wider of the unlawful zone' than if the boundaries of the forbidden areas were clearly marked."[142] Because these policies can infringe on protected areas of speech, the Court applies strict judicial scrutiny to policies that restrict freedom of speech.[143] Under the strict scrutiny test, government must justify its regulation of speech on the grounds that it serves a compelling state interest and that the least restrictive means were used to achieve that interest. Vague policy language that cuts too wide a path and therefore touches on protected areas of expression will not overcome the barrier of strict scrutiny. Such policies have the potential to restrict expression on the basis of content and, thus, will be declared unconstitutionally vague because it raises the specter that government may effectively drive certain ideas from the marketplace.[144] To overcome the barrier of strict scrutiny, these policies should be specifically tailored to conduct between the instructor and student within the classroom. Classroom conduct may include conduct outside of class if it is directly connected to the coursework within the classroom. Sexual harassment among employees should be excluded from these policies. It is governed by Title VII and EEOC regulations, and does not require additional policy protection.

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[141] *See supra* notes 70-88 and accompanying text.

By regulating conduct within the classroom, the university is limiting speech in a specific place. Time, place, and manner restrictions have long been upheld by the Court because such restrictions do not drive ideas from the marketplace, it only re-routes those ideas along a different path.[145] Limiting speech specifically within the classroom also avoids the challenge of overcoming the broad protection speech receives in a public forum. In a public forum, free speech values are maximized, and government regulations that limit speech must meet the "strictest of standards."[146] Because the classroom was never intended for indiscriminate expressive activity by the general public, it can be viewed as a nonpublic forum for legal purposes. Speech in a nonpublic forum is not governed by the strict scrutiny standard and may be limited as long as the limitations are compatible with the intended purpose of that forum. Even if the classroom is occasionally used for public for assembly and speech, "selective access does not transform government property into a public forum."[147] In *Perry Educ. Assn. v. Perry Local Educators' Assn.*, the Court recognized that a limited public forum is bound by the strict scrutiny standard only when it "retain(s) the open character of the facility." When the forum is no longer designated for public use, it is no longer bound by the strict scrutiny barrier.

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[142] *See supra* note 29 and accompanying text.

[143] *See supra* notes 28-33 and accompanying text.

[144] *See supra* notes 40-44 and accompanying text.

[145] *See*, Kovacs v. Cooper, 336 U.S. 77 (1949) for holding on time, place, and manner restrictions.

Constitutional guarantees can also be violated when a university fails to adequately notify its faculty of the policy's provisions. By failing to provide a fair warning of the conduct proscribed, such policies trap the innocent and are therefore considered unconstitutionally vague. The Court has insisted that laws give a person of ordinary intelligence an adequate notice of the type of conduct prohibited.[148] Before a policy is enforced, those affected by it should be notified as to the specific type of conduct that is now prohibited. A transition period should also be set aside to avoid an entrapment charge. During this time, copies of syllabi could be voluntarily submitted for review and evaluation. Further direction by department chairs and other administrative officials should also be available to those instructors who request it. In other words, a good faith effort to provide fair warning should be made by the university before it enforces the new policy.

Universities must also be careful about enforcing such policies. The Court has concluded that arbitrary and discriminatory enforcement constitutes a denial of due process.[149] As a result, universities must avoid selective policy enforcement. Once standards are set, universities should conduct annual performance reviews of all instructors in an effort to apply the policy uniformly. In addition, the policy should spell out the specific types of disciplinary measures involved in a policy violation. Specific procedures should be in place to determine and challenge a violation finding.

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[146] *See supra* notes 45-49 and accompanying text.

[147] *See supra* notes 50-55 and accompanying text.

[148] *See supra* notes 23-25 and accompanying text.

Universities must make it clear to all instructors that classroom communication is employee communication and, as a result, can be regulated when such speech severely inhibits or prevents the university from achieving its publicly mandated goal of educating students. In this respect, universities will be framing policy decisions in the context of *Pickering*, *Connick*, and *Waters*. Policies framed as specific limitations on employee conduct and communication will overcome the First Amendment challenge of academic freedom. The Court has held that universities have "the inherent power" to enact and enforce rules and regulations, discipline its faculty and staff, and protect its goals and reputation.[150] This line of reasoning includes a university's right to review the teaching methods of its faculty and to institute disciplinary procedures, including dismissal, when necessary. The idea that academic freedom is the freedom to thwart the academic goals of the university and stifle the educational pursuits of its students has never been promulgated by the Court. Academic freedom, according to the Court, is the unfettered pursuit of scholarship and knowledge for both teachers and students. "Teachers and students," the Court said in *Sweezy*, "must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die."[151] The freedom set forth in *Sweezy* "thrives not only on the independent and uninhibited exchange of ideas among teachers and students, but also . . . on autonomous decision

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[149] *See supra* notes 26-27 and accompanying text.

[150] *See supra* note 129 and accompanying text.

[151] *See supra* note 122 and accompanying text.

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making by the academy itself."[152] Rather than exempt an instructor's classroom speech from evaluation and subsequent disciplinary actions, this line of reasoning provides universities with the legal protection to enforce its rules and regulations. These decisions are further supported by case law that upholds a public employer's right to discipline the speech of a public employee and administrative regulations that advance the elmination of sexual harassment. Taken together, this body of law constitutes a formidable barrier to assertions of academic freedom by faculty members who believe that this right includes the freedom to promulgate sexually-charged classroom communcation. Not only do public universities have the legal authority to evaluate and discipline such classroom conduct, but under the concept of academic freedom, it also has a social responsibility to provide an educational environment that fosters inquiry, understanding and the "independent and uninhibited exchange of ideas among teachers and students."[153] Anything less constitutes a discriminatory application of academic freedom that sanctions the misconduct of a few at the expense of the academy, its students, and an inexhaustible faculty body whose meritorious conduct inspired this amorphous freedom.

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[152] *See supra* note 140 and accompanying text.

[153] *Id.*

Markham Competition

New York Times' Use of Symbolism In Foreign Conflict Reporting: The Case of the Eritrean War (1962-1991)

By Meseret Chekol
July 3, 1997

The question of whether the media are independent of U.S. foreign policy or its followers in foreign news reporting has been a subject of debate among international communication scholars for sometime. Gans (1979, p. 37) notes that the media do follow the State Department's line, "if not slavishly" in foreign news coverage more than they would the White House in covering domestic news.

Similarly, Paletz and Entman (1981, pp. 213-220) demonstrate how the media followed U.S. foreign policy in reporting on events in different countries that held varying types and degrees of relationships with the United States by using the State Department as a source of news as well as by following U.S. policy toward the regimes of such countries. Herman and Chomsky (1988) go even further on this question of relationship between the media and U.S. foreign policy by introducing the notion of "dichotomized treatment", where different countries with similar events receive different emphases of coverage by the media based on their relations with the United States.

In any case, one way of understanding the position of the media on such matters is by studying their use of symbolism. This paper then attempts to address the question of relationship between the media and U.S. foreign policy in reporting foreign news by examining the former's use of symbolism. I shall take the case of the Eritrean war in

Ethiopia which lasted through two regimes that maintained diametrically opposite relationships with the United States. The study will be limited to the New York Times coverage of this 30-year-long war.

Theoretical Framework

To the symbolic interactionist, anything can be considered a symbol and carrier of meaning. It is therefore proper to ask whether the media carry symbolic use beyond the obvious content of their message (Tervinno, et al, 1987, p. 558). Symbols represent things, objects, places, ideas, etc. and communicate about those phenomena. Thus we may conceptualize symbolism as a system of communication whereby people through the use of symbols express their ideas or convey messages about things, objects, places, etc. Besides standing for something other than itself, every symbol evokes "an attitude, set of impressions, or a pattern of events associated through time, through space, through logic, or through imagination with the symbol" (Edelman, 1964, p. 6).

Bennett (1983, p. 42) notes that every symbol has two effects upon us: first, it engages our thinking processes. This cognitive effect is responsible for the basic meaning of a symbolic message. Second, it engages our emotions by triggering a feeling about the message.

The cognitive effect involves the basic meaning for any symbol, which is narrow and specific, whereas the emotive effect involves any possible meanings, which can be broad and numerous. He elaborates that, for example, the term "freedom" has multiple associations for nearly everyone, whereas the term "congressional delegation" has a narrow and specific meaning. Freedom can be used in highly emotional ways, while congressional delegation provokes little emotion from most people under most circumstances. Bennett refers to symbols that evoke broad categories of meaning accompanied by strong emotions as "condensational", and to those that convey specific meaning with little emotion as "referential".

In an earlier work (1980, pp. 256-57), Bennett provides a succinct, yet thorough description of the characteristics of these two types of symbol formats, which are also common occurrences in political news. He writes: "Referential symbols are economical, concrete, and not prone to attract emotional baggage; they refer to things in specific and precise terms." Edelman (p. 6) for his part brings out that such symbols are useful because they help in logical thinking about the situation and in manipulating it.

Condensational symbols on the other hand "appear in context with abstractions tentatively thought ambiguous in meaning, have a history of emotional concerns for the audience" (Bennett, pp. 256-57). Such symbols "condense into one event, sign, or act" (Sappire, 1934, pp. 492-495).

Edelman (p. 7) argues that no example of symbols can ever be completely free of either referential or condensational symbols. At the same time, he stresses that the distinction between the two types of symbolic behavior is fundamental and realistic in political analysis.[1]

Bennett, too, shows that the use of different symbols could have policy implications for decision-makers. According to him, when public concern or involvement in an issue is undesirable, policymakers tend to use referential symbols. If, on the other hand, public involvement is called for, the issue may be defined in condensational terms (p. 257).

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[1] Actually, Edelman finds condensational symbols to be expressive symbols. He also sees referential symbols as abstract political symbols (see p. 11).

Pool, et. al. (1983) for their part speak of two kinds of symbols, "key symbols" and clichés. They regard "key symbols" as the focal point for the crystallization of sentiment. Clichés on the other hand are statements coming in the form of sentence or phrase, but widely believed and quoted. In verbal politics, clichés occupy the position between "the simplicity of the "key symbol" and the elaborateness of creeds and codes". Good examples are such clichés as "land for the peasant" used by the Bolsheviks in 1917.

Pool and his associates classify "key symbols" into three: those referring to persons and groups (symbols of identification), those referring to preferences and volitions (symbols of demand), and those referring to the assumptions of fact (symbols of expectation). When religious passions began to subside in modern Europe, the most influential focal points of identification became secular and national. Later, identifications were made with symbols of economic class as "proletariat" and that of race such as "Aryan".

Demand symbols, too, rose, registering the currents of the age and also contributing to their fate. Also, symbols of expectation such as "progress" and "the inevitable triumph of world revolution" signaled shifting panoramas of hope as opposed to despair.

A given ideology can also be summarized based on the key terms receiving positive and negative treatments. For instance, in communist ideology, the terms "bourgeoisie", "capitalism", "imperialism", etc. are viewed negatively, whereas symbols such as "dictatorship of the proletariat", "class struggle", and "collectivism" bear positive connotations.

At the same time, it is essential to note that the same symbol could be used for different representations by actors of different ideologies or cultures. Thus the use of symbols is to some extent positional and socially constructed. For example, to the western philosopher "bourgeoisie" means a positive term to refer to a modern middle class working itself up toward some progressive goal. Whereas, as we said earlier, to the Soviet dogmatic Marxist, "bourgeoisie" is a reactionary class always interested in its own progress at the expense of the working class; therefore, it receives a negative connotation. Similarly, to the Soviet and Chinese ideologues, the term "communist" is a reference thatthey take pride in, whereas in the United States "communist" evokes a sentiment of repression and brutality.

In a study of symbolic analysis of newspaper coverage of a given event, then, one needs to pay close attention to the ideological context the journalist and his media organization operate in and to what audience of what ideological and cultural background they are sending their messages.[2]

Chang (1990), too, finds ideological symbols commonly used by newspapers and official documents in their treatment of U.S.-China policy. Ideological symbols carried political resonance: e.g., "Communist China", "Red China", "Nationalist China", "Free China", etc. Based on Bennett's typology, he refers to such labels as condensational symbols as they invite emotional associations and private interpretations (Chang, p. 170).[3]

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[2] In this study we assume that the New York Times, although enjoying worldwide circulation, is primarily intended for the American audience.

Two other types of symbols he comes across quite frequently in the same study are geographical and legal symbols. To him, geographical symbols tend to be neutral, showing no political connotation. Examples are "Peking", "Beijing", "Mainland China", "Taiwan", "Formosa", etc. Legal symbols by contrast imply acceptance of legitimacy and existence as a political entity involving the official side of China and Taiwan; e.g., "People's Republic of China", and "Republic of China". Further, he discovers that unlike the ideological symbols, the geographical and legal symbols tend to be more specific, leaving little room for individual sentiment and projection (Chang, p. 170).

Moreover, Chang (p. 176) learns that after 1971 (that is after Nixon's visit to Peking), the use of symbols concerning Taiwan in the two newspapers clearly shifted from "Nationalist China" to "Taiwan". Within a short period of time, the symbol "Taiwan" became common in the news coverage of U.S.-China policy. And this shift in the newspapers followed the shift of government policy in 1968 from "Nationalist China" and "Republic of China" to "Taiwan". Further, starting 1972 the official government policy dropped the idea of two Chinas and referred to one China, and this was followed by the newspapers which not only dropped the reference to two Chinas, but also regarded the idea of two Chinas as "reckless and careless." He concludes from his study that there is sufficient evidence to suggest that the newspapers use the same types of symbols employed by U.S. foreign policymakers in their coverage of international news.

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[3] Again such a reaction is intended for the American audience.

This study analyzes the use of symbolism by the New York Times based on Bennett's classification of referential and condensational symbolism. In the course of our analysis, Chang's terms of geographical, legal, and ideological symbolism may be used as they are essentially based on Bennett's classification.

Background on the Eritrean conflict and Ethio-U.S. Relations

Eritrea, a UN-recognized sovereign nation since 1993, was under Italian colony from 1882 to 1941. Upon the fall of the Fascist government in Italy during World War II, Eritrea went to the trusteeship of Britain, and then in 1952 was federated with Ethiopia under UN Resolution 390.

Ever since Italy withdrew its forces from Eritrean soil in 1941, there have always been divisions both among its own people and the Allied powers on the question of whether Eritrea should be an independent state or reintegrated with Ethiopia, (hence back to the centuries-old pre-colonial status quo), much to the desire of the Ethiopian government.

Between 1948 and 1952 the four Allied Powers-- Britain, France, USSR, and U.S. took different positions on this issue. In 1945, for example, the U.S. proposed that only Southern Eritrea be integrated to Ethiopia, while the decision on the rest of the territory (including the capital Asmara and Port Massawa) be postponed till a year later (Document No. 26 in Gebre-Aab, 1993, p. 89).

Then in 1949 the U.S. increased Ethiopia's share of Eritrea to include the capital Asmara and the surrounding areas. This included the Port of Massawa, so that the territory may not be used as a base against Ethiopia and also that Ethiopia may maintain its access to the sea (Document No. 31 in Gebre-Aab, p. 114).

On Dec. 2, 1950 the UN passed a resolution that Eritrea be federated with Ethiopia holding an autonomous status; the Soviet Union and nine other member states -- most of them Arab countries-- opposed it (Document No. 38 in Gebre-Aab, p. 196). This culminated in 1952 with the U.S. and the rest of the United Nations voting for Eritrea's federation with Ethiopia.

According to Bereket Habte Selassie, an Eritrean scholar, before the British handover of Eritrea in 1952, the United States and Emperor Haile Selassie of Ethiopia signed a secret mutual defense pact lasting for 25 years, under which the United States "leased" a military base in Eritrea, and in return Haile Selassie would obtain military and other assistance. Sometime before the treaty was signed, Haile Selassie had placed himself at the disposal of the United States which, in Habte Selassie's words, "in return maneuvered the United Nations" to push for a "federal" solution for Eritrea. He says that this is the background against which United Nations Resolution 390 A (v) was passed on 2 Dec., 1950, proposing that Eritrea be constituted as an autonomous unit to be federated with Ethiopia under the sovereignty of the Ethiopian crown (Davidson, 1980, p. 38).

While the geopolitical question was resolved externally, there were still divisions among the Eritrean people where they should belong. The Muslim League which represented more than half of the Eritrean population insisted on independence, while most of the Christian population was by and large content with the federation. This division led to instability within the territory, hence affecting the central government of Ethiopia.

As opposition mounted, the Ethiopian monarchy in 1962 arranged for the Eritrean legislature to vote on the issue. The Eritrean legislature voted in favor of unity with Ethiopia. Consequently, the central government dissolved the federation and proclaimed Eritrea as an integral part of Ethiopia.

However, the fairness of this vote has always been questioned by the opposition: it accused the Ethiopian monarchy of masterminding the whole affair so that the outcome of the vote may turn out in its own favor. The United States which had already developed close political, economic and military ties with Ethiopia chose to remain silent on the issue.

In late 1962 the Eritrean Islamic faction, which had always been insisting on independence, launched a guerrilla activity under the name Eritrean Liberation Front (ELF) in opposition to the territory's union with Ethiopia.[4]

As conflict grew between the rebels and the Ethiopian forces, more and more Eritreans joined the opposition either by joining the Islamic faction itself or by forming other similar factions.

U.S. military presence in Eritrea was not liked by these rebel groups. Therefore, from time to time American military personnel were taken as hostages or even killed. The U.S. government became increasingly uneasy about the security situation in Eritrea, and eventually closed its base in 1977, a year before its treaty with the Ethiopian government was to expire.

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[4] The people and government of Ethiopia on the other hand viewed this union as Eritrea's reintegration with the motherland.

Several other factors have contributed to this early withdrawal: First, the military government of Ethiopia which succeeded the monarchy overthrown in 1974 was increasingly in sharp conflict with the U.S. government over a cool response by the latter to the former's request for sale of arms as part of the mutual military agreement between the two countries. Earlier on, the deposed imperial regime, too, had been denied its request for arms purchase, and therefore felt that the U.S. was not abiding by its 25-year treaty by showing reluctance to come to its aid in such a time of need.

In both cases, the U.S. was apparently caught in the middle-- between meeting Ethiopia's request and yielding to pressure from the oil-rich Arab states which not only had geographical proximity with Eritrea, but also supported its rebel groups. Secondly, the U.S. was not sure about the political direction of the new military government in Ethiopia, as it was already declaring socialism as its guiding ideology.[5]

Finally, after a long pondering, the U.S. announced that it would sell Ethiopia 7 million dollars worth of arms. Despite providing military aid to Ethiopia, until that time the United States had avoided becoming involved in its client's military operations in Eritrea. Nonetheless, given its good relations with Ethiopia, its support for the Organization of African Unity's policy on territorial integrity, and its anxiety about Soviet and Chinese backing of the Eritrean rebel factions, Washington had been sympathetic to the effort of keeping the country intact. (Petterson, pp. 633-35; see also

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[5] Despite its claim of socialism as a political direction, the military government did not align with the Soviets until 1977.

U.S. Department of State Bulletin, April-June 1975, p. 40, July-Sept. 1976, pp. 302-303).

Yet, in 1977 President Carter, only a month after he took power, banned military aid to three countries including Ethiopia, in Ethiopia's case, before the 25-year military assistance agreement was to phase out in 1978. The principal reason for such a ban was the military government's human rights record.

On the other hand, in spite of the differences and conflicts between the two governments, the U.S. until well into 1975, officially took the position that Eritrea was historically an integral part of Ethiopia (U.S. Department of State Bulletin, Jan.-Mar. 1975, pp. 383-84). With respect to the ongoing war, the U.S. position during the same year was rather vaguely expressed by the statement: "We would like to see a peaceful settlement of the Eritrean problem, for we believe that this is the only way to achieve a lasting solution. . . .We are seeking to pursue a prudent policy that protects our overall interests" (U.S. Department of State Bulletin, Jan.-Mar. 1975, pp. 385-86); see also Apr.-June 1975, p. 40). This ambiguous position was even maintained in the 1980's and early 1990's until the fall of the communist regime in Ethiopia in May 1991.

Finally, in 1993 in a radical departure from its former position, the U.S. sponsored a United Nations resolution for the independence of Eritrea. This it did in spite of its past policy statements that Eritrea was historically an integral part of Ethiopia. Then in April of that year, the United Nations recognized Eritrea as an independent sovereign state.

Indeed, historical evidence shows that the United States took different positions on the question of Eritrea at different times, mainly guided by its own national interests rather than by historical facts.

Based on our theoretical framework and the above background of the Eritrean conflict, this paper attempts to address the following research questions: What was the outstanding symbolic representation of the Eritrean conflict in the U.S. newspapers? How did it shape over time? To what extent was the shift -- if any -- determined by shifts in U.S. policy toward Ethiopia? I shall attempt to address these research questions by testing the following hypothesis:

H: The media tend to follow U.S. foreign policy in international news reporting. Therefore, the New York Times' use of symbolism in reporting the Eritrean war is likely to follow the changing U.S. policies toward the conflict through the years.

Method

This is a case study based on data collected from the New York Times over a 29-year period between 1962 and 1991. The New York Times has been one of the few U.S. newspapers which devoted extensive coverage to the Eritrean conflict.

The study encompasses two major periods: Period 1 from 1962 to mid-1974 during which the government in Ethiopia was a Pro-U.S. monarchy, and consequently allowed the U.S. to run a military base in the zone of conflict itself; and Period 2 from mid-1974 to mid-1991, during which the communist government in Ethiopia maintained sharp differences with the United States throughout the 17 years of its rule.

Our unit of analysis is the news story. For our purpose here, a news story may take the form of a regular news report, editorial, feature, or commentary. It may or may not have a byline or dateline.

The New York Times Index has been used as a source for collecting the data. A total of 379 stories were printed by the newspaper during the entire study period, 54in Period 1 and 325 in Period 2.

Because of the enormous disproportion of coverage between the two periods of the study, we applied a standard sampling of a maximum of seven stories from each year of the study period. That way, we have been able to minimize the difference in sample size between Periods 1 and 2.

Thus, the sample size for Period 1 comes to 38, and the sample size for Period 2 stands at 102.

Findings and discussion

To begin with, we found the following list of referential and condensational symbols pertaining to the Eritrean resistance groups in the entire 29-year period of the conflict covered by the study.

Table 1
Symbols Grouped by Categories

Referential	***Condensational***
front	rebel
Eritrean Liberation Army	guerrilla
Eritrean Liberation Front (ELF)	insurgent
Eritrean People's Liberation Front (EPLF)	bandit
popular liberation forces	secessionist
	terrorist
	nationalist
	activist
	dissident
	separatist
	Marxist
	left-wing (leftist)
	progressive
	socialist
	communist

Let us now examine the two periods one by one:

Period 1: Out of the list of symbols shown in table 1, 13 symbols were used in Period 1. Table 2 groups these symbols according to their categories:

Table 2

Symbols Used In Reference to Eritrean Resistance Groups In Period 1
by Categories

Referential		***Condensational***	
Eritrean Liberation Army	8 (3.6%)	rebel	48 (21.7%)
The Front	62 (28.1%)	guerrilla	52 (23.5%)
		Insurgent	12 (5.4%)
		Bandit	10 (4.5%)
		Secessionist	7 (3.2%)
		Terrorist	13 (5.9%)
		Dissident	2 (0.9%)
		Nationalist	3 (1.4%)
		Activist	2 (0.9%)
		Left-wing (leftist)	2 (0.9%)
total	70 (31.7%)	*total*	151 (68.3%)

Grand total 221 (100%)

As shown on the table, not only were various types of condensational references used as opposed to referential ones (5 times to 1), but also, the New York Times used condensational references much more frequently than it did referential ones, almost by a margin of over 3 to 1.

Then, we decided to group the 15 condensational symbols used by New York Times according to their direction of attitude and level of intensity, and examine their frequency distribution across the two periods. Thus we came up with four attitude categories: very unfavorable, moderately unfavorable, moderately favorable, and very favorable. The two graduate students who participated in the inter-coder reliability test were asked to make a relative judgment as to which of the 15 condensational symbols identified by the researcher they would consider to be very unfavorable, moderately unfavorable, moderately favorable, and very favorable to mainstream American society. Values of mainstream American society are considered here because the New York Times is generally believed to reflect the values of mainstream American society. Level of agreement between coders stood at 86.7 percent.

Table 3

Condensational Symbols categorized by degree of attitude

Very Unfavorable			***Moderately Unfavorable***			***Moderately Favorable***			***Very Favorable***		
Terrorist	13	8.6%	Rebel	48	31.8%	Dissident	2	1.3%	Activist	2	1.3%
Bandit	10	6.6%	Guerrilla	52	34.4%				Nationalist	3	2.0%
			Insurgent	12	7.9%						
			Secessionist	7	4.6%						
			Left-wing	2	1.3%						

Total 151 100%

From the above table, we can see that New York Times used moderately unfavorable condensational symbols 80.1% of the time, followed by very unfavorable ones, capturing 15.2%. And, in spite of degree variation, based on the above two figures we can say that the paper's use of condensational symbols in reference to the Eritrean Resistance groups was almost always unfavorable-- 95.3% of the time.

In summing up, first, condensational symbols were used by the newspaper much more frequently than referential ones. Second, the paper almost always used unfavorable condensational symbols. These two findings indicate to us that:

(1) the paper in Period 1 was less inclined to give recognition to the Eritrean resistance groups. Assuming for a moment that the media tend to follow U.S. foreign policy in reporting international news, such a treatment of the resistance groups by the paper is plausible in the light of United States' close ties with the then Ethiopian government whom the rebels were fighting;

(2) the above findings show to us that the media held an unfavorable attitude toward the resistance groups or their members in Period 1. This is consistent with its disinclination to give them formal recognition.

Period 2: We see pretty much the same pattern of usage of symbols by New York Times in Period 2 as in Period 1.

Table 4

Symbols Used in reference to the Eritrean resistance groups in Period 2
by categories

Referential			***Condensational***		
Eritrean Liberation Front	42	(6.0%)	rebel	294	(42.1%)
Eritrean People's Liberation Front	81	(11.6%)	guerrilla	144	(20.6%)
Popular Liberation Front	7	(1.0%)	Insurgent	25	(3.6%)
The Front	16	(2.3%)	Bandit	0	(0%)
			Secessionist	36	(5.2%)
			Terrorist	0	(0%)
			Dissident	2	(0.3%)
			Nationalist	9	(1.3%)
			Activist	0	(0%)
			Left-wing (leftist)	9	(1.3%)
			Marxist	22	(3.1%)
			Separatist	10	(1.4%)
			Progressive	1	(0.1%)
			Socialist	1	(0.1%)
total	146	(20.9%)	*total*	553	(79.1%)

Grand total: 699 (100%)

Table 5

Condensational Symbols Used in Period 2
categorized by degree of attitude

Very Unfavorable			***Moderately Unfavorable***			***Moderately Favorable***			***Very Favorable***		
Terrorist	0	0%	Rebel	294	53.2%	Dissident	2	0.4%	Nationalist	9	1.6%
Bandit	0	0%	Guerrilla	144	26.0%				Progressive	1	0.2%
			Insurgent	25	4.5%						
			Secessionist	36	6.5%						
			Left-Wing	9	1.6%						
			Marxist	22	4.0%						
			Separatist	10	1.8%						
			Socialist	1	0.2%						

Grand Total: 553 100%

From tables 4 and 5, we realize that in Period 2 the Times used a greater variety of symbols of the referential type: in Period 1 only two kinds were used, whereas in Period 2 four were used. Some of the referential symbols used in Period 1 were dropped in Period 2, and new ones were introduced. This is simply because the Eritrean resistance movement underwent splits, each forming into an autonomous group identified by its own name. Further, some of them changed the names they used in Period 1. For instance, Eritrean Liberation Army changed its name to Eritrean Liberation Front.

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Similarly, Popular Liberation Forces changed itself to Popular Liberation Front, and finally evolved into Eritrean People's Liberation Front.

However, in terms of frequency of usage, we found out that referential symbols, compared to condensational symbols, were used less often by the Times in Period 2 than in Period 1: 20.9 percent in Period 2 as opposed to 31.7 percent in Period 1. This is despite the fact that some of the most unfavorable references such as "bandit" and "terrorist" commonly used in Period 1 were completely dropped in Period 2. This is not to suggest that more frequent use of referential symbols in one period than in the other means that the paper has conferred a greater degree of recognition to the resistance group. Only a cross-period comparison of the use of both referential and condensational symbols would give us an accurate picture of the paper's attitude toward the resistance group or groups.

With regard to condensational symbols, we observe in Period 2 more frequent use of moderately unfavorable references than any other type of condensational symbols: as high as 75.1 percent as opposed to 50.4 percent in Period 1. We see a wider variety of condensational symbols, too. Very unfavorable references like "bandit" and "terrorist" were dropped, and a number of moderately unfavorable references were introduced. As many as eight of them were used in Period 2 as contrasted with five in Period 1. The number of very favorable references remained two; however, the reference "activist" used in Period 1 was replaced in Period 2 by "progressive". The frequency of favorable references as a whole increased a little in absolute terms; however, it still remained insignificant in relative terms.

The shift in the pattern of use of symbolism across the two study periods may best be illustrated by the following examples. In Period 1 the action of the Eritrean rebels was presented as "guerrilla terrorism" (Dec. 18, 1970), whereas in Period 2 it was legitimized as "war for independence" (Feb. 21, 1982, Sept. 6, 1982). In Period 2 the rebels were described as "bandits supported by foreign governments" (Dec. 18, 1970), whereas in Period 2 they were justified as "freedom fighters".

This pattern of shift in the use of symbolism is also consistent with the shift in word usage. In Period 1 the New York Times presented the dissolution of the federation with such statements as "Eritrea's legislative assembly decided to .... unite with Ethiopia", "Eritrea became a province of Ethiopia", "became a part of Ethiopia", "fully integrated with Ethiopia", "joined to Ethiopia", "the federation became a unitary state" (Nov. 16, 1962, Jan. 19, 1971; Aug. 27, 1967; Mar. 18, 1971; Mar. 3, 1967; Mar. 10, 1967; June 19, 1969). Here, it was emphasized that Eritrea lost its autonomous status of its own will, with its legislative assembly voting in favor of unity with Ethiopia (Dec. 30, 1970).

By contrast, in Period 2 the New York Times used expressions like "annex" repeatedly to show that Eritrea was forcibly occupied by Ethiopia (Dec. 4, 1979, Jan. 19, 1982; Nov. 25, 1984). In Period 1 the rebellion of Eritreans was seen as "a home-grown product" of the province's "turbulent past under a succession of alien rulers" (Dec. 18, 1970), whereas in Period 2 it was regarded as the result of the occupation of Ethiopia (Dec. 29, 1982).

Similarly, in Period 1 the emphasis was on the export support that the Eritrean rebels were receiving: expressions like "their Arab backers...", "supported by militant Arab countries...", "Soviet ... Red Chinese support", as well as "trained by Cuba" were common (Mar. 3, 1967; Sept. 27, 1968; Jan. 19, 1971). In Period 2, on the other hand, the emphasis was on Ethiopia's military support from the Soviet Union and radical Arab countries like South Yemen and Libya (Feb. 21, 1982, Dec. 29, 1982, Sept. 27, 1987).

To sum up, in Period 2, the New York Times used more moderately unfavorable references of the condensational category than it did in Period 1. At the same time, it totally dropped the use of very unfavorable references. It maintained the same level of very favorable references, but made less frequent use of referential symbols than in Period 1. Yet, the variety of the types of the referential as well as condensational symbols was greater than in Period 1. The overall assessment from this picture is that the New York Times tended to be softer toward the Eritrean rebels in Period 2 than in Period 1.

Such a shift in attitude may be explained from two perspectives. From the propaganda model perspective, the shift would be due to the practice of dichotomous treatment by the U.S. media based on their anti-communist ideology (Herman and Chomsky, 1988). During Period 2 Ethiopia, a long-standing special ally of the U.S. in the Horn of Africa, switched to the side of the "evil" communist block only to become "a Soviet satellite".

Such a shift of allegiance by Ethiopia was a significant strategic loss to the U.S. in an area where the oil shipping lanes from the Arabian peninsula needed to be monitored.

The Eritrean rebels, for their part, were undesirable Marxist ideologues, but less of a threat, hence treated as the "lesser evil".

Also, from the second perspective, the social movement perspective, the New York Times' relatively moderate attitude toward the Eritrean rebel movement in Period 2 as opposed to Period 1 may be a result of the different stages of the latter's development. During Period 1, its formative period (the stage of initiation), the Eritrean movement was hardly recognized internationally, and therefore it had few sympathizers among the dominant groups in the U.S. power structure. In Period 2, on the other hand, through the routinization of publicity, the Eritrean rebel movement gained relative legitimacy among influential groups in the U.S., thus attaining the stage of legitimation (Olien, Tichenor, and Donohue, 1989; Kessler, 1980).

Therefore, although the powerful groups in the U.S. were somewhat uncertain of the movement's Marxist leanings and its alliance with such radical Arab states like Syria, its cause certainly gained recognition among influential members of the policy-making institutions; i.e. the State Department and congress.[6]

Like the propaganda model, the social movement perspective, too, postulates that conferral or denial of legitimacy by the U.S. media to any group or movement is contingent on the actions of the powerful dominant groups in the political system. If we then follow the thesis of the two perspectives, it would mean that the New York Times conferred legitimacy to the Eritrean rebel movement in Period 2 pursuant to the movement's recognition by the U.S. foreign policymakers. However, the media data and the government data below have fallen short of establishing this causal link unequivocally. Yet, the pattern of similarity in the shift of attitude evident between the two parties is still a significant finding, as we shall see below.

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[6] Although there has been no resolution passed by Congress or State Department in favor of independence of Eritrea, the very fact that issues of the war were tabled in Congress in Period 2 (that is, during the Communist regime in Ethiopia) is a clear evidence of the cause of the Eritrean movement gaining ground in these circles.

Findings from government data

A total of 31 documents on Ethiopia (20 from Congressional Record and 11 from U.S. Department of State Bulletin and Dispatch) were examined. These directly or indirectly dealt with the war in Eritrea over the 29-year period. Interestingly enough, there was not a single document on Ethiopia in the 1960's, neither in the Congressional Record nor Department of State Bulletin/Dispatch, let alone about the emerging rebellion in Eritrea.

A plausible explanation for this is that the U.S. government chose to be silent in an apparent reluctance to bestow any degree of recognition to the Eritrean rebel movement at the time. In Period 2, on the other hand, although the U.S. reiterated the rather vague position of "negotiated settlement", as we saw earlier in this paper, it was clear that it gave the rebel movement some degree of recognition, to the extent that it believed that it was a force to be reckoned with. Unlike the total blackout in Period 1, the government documents on a number of occasions made a direct reference to the Eritrean opposition groups by using their formal names (referential symbols). At other times, the policymakers in these documents discussed the Eritrean question by employing less formal references as "the civil war", or simply "the war in the northern province of Eritrea", "the fighting in Eritrea", "the movement", etc. Like the New York Times, a majority of the time the policymakers, as shown in these government documents, preferred using the condensational symbols.

Table 6

Use of Symbols in Period 2 by Categories

Referential		***Condensational***	
Eritrean Liberation Front (ELFF)	4 (16.7%)	Rebel	5 (20.8%)
Eritrean People's Liberation Front	3 (12.5%)	Insurgency	7 (29.2%)
Popular Liberation Forces	3 (12.5%)	Marxist	2 (8.3%)
Total	10 (41.7%)	*Total*	14 (58.3%)

Grand Total: 24 (100%)

As shown above, in Period 2 the U.S. government did bestow some degree of recognition to the secessionist movement in Eritrea by using the legal names of the groups to a certain degree, but to a larger extent it chose to identify them as "rebels", "insurgents", and even at times used an ideological reference -- "Marxist".

Indeed, in Period 2, the media and the U.S. government took a more or less similar position by maintaining a cautious and ambivalent symbolization of the Eritrean groups. In Period 1, too, the media were quite vocal in their opposition to the groups, and the government, apparently by way of denying any recognition to the movement, maintained a total blackout of the conflict throughout the years of the Pro-U.S. monarchical regime.

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Conclusion

The study of the use of symbols indeed sheds some light on the question of the independence of media reporting vis-à-vis U.S. foreign policy. Our study reveals a similarity between the New York Times and the U.S. foreign policymakers in the pattern of their shift of attitude toward the rebel movement across the two study periods. In Period 1, both parties expressed their rejection of the Eritrean rebel movement, though in different ways: the media by denouncing its actions through extensive use of highly unfavorable condensational symbols, and the U.S. foreign policymakers by not considering it important enough to issue a public statement.

In Period 2 the two parties conferred legitimation on the movement and its groups, again taking a similar position. Although the convergence of position does not warrant a causal relationship between U.S. foreign policy and the media, the data have been found supporting our hypothesis to the extent that they have revealed some kind of convergence in the pattern of the shift of attitude by the two parties.

Limitations of the study and suggestions for further research: Finally, it is important to point out that this study has got two major limitations. First, it is a case study based on only one newspaper. Secondly, a study of the use of symbols, though valuable in shedding light toward greater findings in future, is a tip of the iceberg. I believe that a rigorous and thorough frame analysis of the Eritrean conflict as covered by New York

Times and the other major international news-carrying papers during the two periods and compared with U.S. government documents could reveal a more definitive result.

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THE PRICE OF ICONOCLASM: THE CORRESPONDENCE OF E.W. SCRIPPS AND FRANK HARRIS BLIGHTON DURING ARIZONA'S PURSUIT OF STATEHOOD

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If Frank Harris Blighton, a financially struggling Tucson newspaper editor, had known of E.W. Scripps' reputation as a penny pincher, he might have hesitated to ask for a handout in 1910. And the newspaper Blighton founded that year might not have survived long enough to fight for a progressive constitution in Arizona.

Scripps was an unlikely candidate to give money to a stranger such as Blighton. Scripps' first rule of moneymaking was to never spend as much as he earned,[1] and that philosophy helped him build America's first chain of newspapers. Despite the wealth that by 1910 had allowed him to live in semi-retirement on a palatial ranch near San Diego, Scripps habitually agonized over expenses. A decade before he received his first letter from Blighton, Scripps had decreed that his reporters must buy their own pencils.[2] He had complained to the *Kentucky Post* when the editor's wife received $1.50 for typing a report.[3] And in a notorious budgetary crackdown, Scripps had ordered the *Cleveland Press* to stop buying toilet paper. His rationale was that newsprint would work just as well, and it did, until the pipes became clogged.[4] By 1910, Scripps was slashing expenses in Chicago in his ultimately unsuccessful attempt to establish an adless newspaper and free himself from advertisers' pressures.[5] Thus, when Scripps received Blighton's request, he reacted in character. He said no -- at first.

Instead of money, he offered advice on how to put Blighton's new paper, *Voice of the People,* on sound financial footing. But after another round of letters flew between Arizona and Southern California, Scripps did the unthinkable: He gave Blighton free use of stories from the Newspaper Enterprise Association (NEA), Scripps' feature syndicate; a free subscription to United Press, his wire service; and finally a series of monthly checks in an attempt to keep Blighton's paper solvent while Tucson advertisers deserted him and political foes hounded him. According to his correspondence, Scripps' expenses totaled at least $1,500, not counting the income he lost when he waived the franchise fees for Blighton's use of the syndicated and wire service stories. In the end, however, Scripps' gamble failed. *Voice of the People* went bankrupt early in January 1912, although not before Arizona voters endorsed a constitution that included the progressive political platform Blighton had championed in its pages. Scripps regarded Arizona's attainment of statehood as an example of what courageous people could accomplish against long odds.[6] To that end, his gamble paid political dividends instead of the financial kind.

Blighton, whose letters depict extreme self-confidence, credited himself with the voters' decision to empower themselves to unseat federal judges despite President William Howard Taft's hostility toward such a measure. This claim cannot be taken at face-value because he was not alone in trumpeting a progressive constitution for Arizona. Phoenix's *Arizona Gazette* switched its political allegiance in 1910 from Republican to Democratic because it favored direct democracy, and it carried out a war of words with the *Arizona Republican* about the proposed constitution.[7] And former President Theodore Roosevelt argued in June 1911 in *The Outlook,* a national magazine that Roosevelt helped edit, that Arizona voters had the right to shape their constitution as they saw fit.[8] While it is impossible to quantify each publication's influence on the constitutional vote, the *Voice of the People* obviously was part of a small chorus. The paper's distinction, and perhaps its impact on the constitutional process, is that its politics were vehemently opposed to those of the entire Pima County (Tucson) delegation to the Constitutional Convention. All five of the county's delegates, as well as most of its business and political leaders, opposed a plank permitting initiative, referendum and recall. Disliking the constitution as written, the five delegates refused to sign, resulting in the historical footnote that the original Arizona Constitution lacks any Tucson representative's signature. Regardless of any statewide influence

Blighton's paper might have had, it changed no votes among the delegates of his hometown. The short history of the *Voice of the People* is less an accounting of personal political triumph than one of political tension between journalists and government, between laborers and business, and between journalism's ideals and its need to turn a profit.

Illuminating all three is the correspondence between Scripps, a veteran of these struggles, and Blighton. Seven letters from Scripps to Blighton and ten from Blighton to Scripps are preserved in the E.W. Scripps Manuscript Collection at Ohio University's Alden Library.

This paper is the first to examine their correspondence in detail. It also is the first to examine copies of the *Voice of the People.* Throughout most of the twentieth century, no copies of the newspaper were known to have survived. A 1949 survey of Arizona newspaper archives by the University of Arizona drew a blank on Blighton's paper.[9] However, the Arizona Historical Society in Tucson at an unknown date acquired a dozen issues -- some complete, some fragmented -- between June 2, 1910, and October 2, 1911.[10] A complete description and analysis of these issues is beyond the scope of this study; however, individual stories, photographs and editorial cartoons will be drawn from this archive to expand upon the Scripps-Blighton letters.

This paper will examine the history of Blighton's newspaper and his relationship with Scripps. It will analyze their correspondence and Blighton's journalistic decisions primarily through the lenses of two theories of media content. The first, a hierarchical model of influences proposed by Pamela J. Shoemaker and Stephen D. Reese, argues that while most media studies examine the influences of content upon audience and society, it is equally important to understand the influences that shape content itself. They describe five concentric rings of influence on media content, from the micro to the macro: (1) the individual journalist's background in the center, surrounded by (2) the journalistic routines in gathering and presenting the news, (3) media organizational structures, (4) extramedia influences, and (5) ideology. The outermost three rings are of special interest. According to Shoemaker and Reese, the media organizational level exerts influence on content through the news medium's need to make a profit; e.g., concerns about circulation and advertising help shape the news. Shoemaker and Reese also state that extramedia influence lies in the social, economic and governmental forces of the community in which the news medium appears, and that ideological influence becomes apparent when the news medium challenges such basic community beliefs as capitalism and the power of the individual.[11] These three broadest rings in the Shoemaker-Reese model correspond roughly to the "filters" through which potential news stories flow in the second theory, proposed by Edward S. Herman and Noam Chomsky. They characterize the following five extramedia influences on media content, in no particular order, as methods of maintaining the status quo and upholding authority: the news medium's profit motive; reliance on advertising; reliance on official sources; the "flak" of protest against stories that attack the status quo; and anti-communism as a national ideology.[12] Of these, all are apparent in this study of Blighton's paper except the reliance on official sources and anti-communism.

The Blighton-Scripps letters pass through three phases in five years.

First was the exploration of shared interests, in which the two newspapermen began identifying with each other. Scripps and Blighton discovered they both favored labor over capital, and ambition and hard work over knowledge. Scripps' letters in this first phase, from October through December 1910, were marked by his advice to Blighton to work hard and cherish the excitement of a state being born. He compared Blighton's experience to Scripps' own shoestring operations when he was starting his career. By establishing points of identity with Scripps, Blighton encouraged broader communication.

The second phase, lasting until October 1911, witnessed the solidifying of a mentor-protégé relationship. Scripps and his staff read Blighton's paper, advised him how to improve it, and expressed confidence in him. The high point occurred in mid-1911, when Scripps and Blighton sent copies of Blighton's paper to congressmen sympathetic to Arizona's gaining a progressive constitution. In this period, Scripps' long-distance mentoring role was unusual for an editor. A mentor has been defined as a long-term coach who promotes career growth and personal advancement, and as a sponsor and role model in a relationship centered on the skills a protégé wants to develop.[13] While it is common for mentoring roles to exist within a newspaper, it apparently is less common for one journalist to mentor another if they have no organizational connection.[14] A clear example of one editor coaching another at a separate paper can be found in Horace Greeley's 1860 letter to a country editor advising him to cultivate success by getting his neighbors' names into his paper -- but there is no indication in Greeley's letters that this relationship blossomed into long-term mentoring.[15] Scripps, on the other hand, had several mentoring or patronage relationships in his life, and not all of them in journalism. He gave a $5,000 commission to sculptor Arthur Putnam because, he said, he admired the man's spunk and was curious about what he would achieve. His curiosity also prompted him to finance Professor William Ritter's marine biological station in California.[16] Studies of mentoring indicate that interpersonal factors play a significant role in determining how mentors and protégés choose each other. Specifically, if they look for partners who are competent, bright and motivated, they are likely to pair up with people who appear confident.[17] Blighton and the other people Scripps supported radiated strength and confidence; it is not surprising that although Scripps was frugal, he sometimes chose, in his words, to "bet on a man."[18]

The third phase, beginning with Scripps' investigation into Blighton's alienation from his wife in October 1911 and ending with Scripps' refusal to loan money to Blighton in 1915, was one of disillusionment. Scripps' initial identification with a hard-working iconoclast had become colored by his realization that Blighton's paper was failing despite Scripps' best efforts, reflecting poorly on Blighton. The final blow may have been Blighton's revelation of a successful libel suit against him by the governor of Arizona.

Blighton first wrote to Scripps on October 3, 1910, misspelling Scripps' Miramar home as "Miramont." The single-spaced, one-page letter showed signs of being written in a hurry or typed by someone possessed of marginal skill as a typist -- seven spelling or typographical errors were corrected by overstriking to make a darker impression.[19] The shoddy typing is noteworthy because Blighton had worked in newspapers for several years in New York and Arizona before starting the *Voice of the People* on May 25, 1910, and said in a later letter that he made pocket money by hiring himself out as a stenographer.[20] In light of these facts, his error-filled, muddy letter to Scripps indicated Blighton's casual attitude and suggested low expectations of receiving a significant reply. The letter appeared on letterhead for the "Voice of the People Printing and Publishing Company, Arizona State Weekly," demonstrating that although Blighton pleaded poverty, he at least had enough money to keep up appearances in his correspondence. The letterhead carried the motto "For All Who Labor and Are Heavy Laden." The overall impression was one of earnestness.

Blighton's letter said he was writing to Scripps at the suggestion of a mutual acquaintance. Ben Heney, the former mayor of Tucson, was the brother of a friend of Scripps' and had written the publisher in 1909 to alert him about corruption in the Tucson police administration.[21] Blighton said he had worked for nineteen weeks, since the founding of the *Voice*, without compensation, spending all of the money he had set aside for its development as well as $350 he had obtained from his wife. He listed his weekly circulation as 1,400, including 1,000 subscribers, and then cut to his request: Would Scripps be willing to help move a $6,100 newspaper plant from Phoenix to Tucson to "establish a clean, fearless, progressive daily, with ideas and ideals."[22]

Scripps thought enough of his reply that he pasted a copy of it in his letterbook collection -- the bound volumes of his correspondence separate from his looseleaf files. His reply offered advice instead of money, asserting that "all the capital and energy" he possessed were earmarked for a "peculiarly difficult and expensive new journalistic enterprise."[23] The letter of advice to a struggling young journalist was typical of Scripps, who encouraged his editors with such homilies and included a chapter of them in his autobiography.[24] He told Blighton:

> If the founder of a newspaper has the right kind of stuff in him he wins whether he has large capital, small capital, or no capital at all.
> My original capital consisted of $80.00 in money and a vigorous constitution and enough self-conceit to equip a regiment of ordinary men.[25]

Blighton fired off a response, picking up on the autobiographical cues that Scripps had dropped. In three single-spaced pages, filled with overstrikes, underlines, scribbled editing marks and capitalization of a handful of words (IDEAL . . . COMPLETE . . . EXACTLY), Blighton tried to draw comparisons between himself and the magnate of Miramar. His own capital in founding the *Voice of the People* was $95, he said, and his supplemental capital included "six feet one and a quarter [sic] of 200 pounds of flesh and bone and blood, with about sixteen years of newspaper training and my own determination to quit when I have to -- and never to have to."[26] Blighton said he was struggling to continue to print the *Voice* despite being charged with assault after, he said, he was attacked by eight henchmen of the corrupt police chief and city recorder, and arrested ten times on charges of criminal libel.[27] Although he did not say so, three of the arrests resulted from charges being pressed by a journalist at a competing newspaper, managing editor James T. Williams Jr. of the *Daily Citizen*. Blighton had accused him of being a "carpet-bagger" so cozy with the political and business elites in Pima County that he rode to and from Washington, D.C., at the expense of the Southern Pacific Railroad.[28]

What Blighton chose to tell Scripps was that his paper continued to appear, although he never said whether he had moved the press from Phoenix. He reiterated that he was broke and his paper in danger of bankruptcy. He blamed his troubles with authority on his championing a progressive constitution for Arizona at the Constitutional Convention that fall; his paper said his opponents favored a "canned constitution" that, in a parody of the Pure Food and Drug Act, was "guaranteed to contain no modern ideas."[29]

The first issue of the *Voice of the People* that survives, dated June 10, 1910, testifies to Blighton's status as iconoclast. The front page of the four-page broadsheet contains six stories. The two above the fold are an attack on Tucson city officials for controlling the city's business climate and an attack on the "Tucson Food Trust" for fixing the price of shredded wheat biscuits at twice the national average. The four stories below the fold concern the conviction of a contracting firm for hiring illegal immigrants; a report that the Tucson water supply was running low; a request for citizens to prevent the loss of the El Paso and Southwestern railroad, coupled with a charge that one of Tucson's leaders had pleaded with the railroad's surveyors to avoid the town; and a district attorney's investigation of vegetable-market collusion in San Francisco. The front page also included a cartoon mocking the "over-rated power" of one of the city's leaders, identified as the "Kink" of Tucson. Inside, the editorial page hammered at the necessity of the Arizona Constitution's inclusion of the initiative and referendum (the recall of public officials was not mentioned).[30] The next issue that survives in the Arizona Historical Society's archives, dated November 4, 1910, devoted a front-page editorial and lead story (upper-right corner) to the battle over initiative and referendum.[31]

Unknowingly, Blighton had struck a chord with Scripps by his devotion to grass-roots politics and had taken a major step toward establishing rapport with the older publisher.

In their politics, Blighton and Scripps were much alike. Scripps, born in Illinois in 1854, had founded his first paper, the *Cleveland Penny Press,* in 1878. He organized the first major American newspaper chain, which grew to total thirty-four papers in fifteen states. His papers subscribed and contributed to his NEA syndicate, founded in 1902 to supply feature stories, cartoons and editorials, and to the United Press, the wire service Scripps co-founded in 1907. Scripps' papers were low-priced, edited for what he called "the 95 percent" who made up the common people, and pro-labor. Scripps' editors were advised of his political views in a 1910 memo from Robert Paine, Scripps' lieutenant, to William B. Colver, the general manager of the NEA. First on the list of Scripps' thirty-three editorial policies was "Loyalty to the masses -- [l]oyalty to what is right and best for the common people, especially including legitimate labor organizations." Also listed were endorsements for a non-partisan judiciary; government inspection and control of mines; and the establishment of direct democracy through initiative, referendum and recall, which allowed voters to bypass legislative bodies to pass laws and remove officeholders.[32] Direct democracy so enraptured Scripps that he tried to organize a progressive intelligentsia in 1910. He invited to Miramar the muckraker Lincoln Steffens, lawyer Clarence Darrow, Wisconsin Senator Robert

LaFollette and others unhappy with the Taft administration, which they considered too reactionary, but nothing came directly from their meetings.[33] Nevertheless, Scripps' biographer asserted that this band of reformers helped spread dissatisfaction with Taft and may have been the most powerful influence in the birth of the Progressive Party candidacy of Roosevelt in 1912.[34] In the political hothouse at Miramar, Blighton's letters found fertile ground.

Little is known of Blighton's background other than what he volunteered to Scripps in their correspondence. What can be gleaned from his letters portrays a man who believed in the wisdom of the common people and the importance of journalism. "Emerson is his [Blighton's] Bible, and Thoreau furnishes his philosophy," Scripps told an associate in a letter.[35] Scripps related in that same letter that Blighton had been raised in New York state and worked at newspapers in Rochester, Albany and Buffalo before moving to the West in 1908 or 1909. He was born in 1874.[36] A photographic self-portrait in *Voice of the People* pictured Blighton in a light-colored suit, dark hat and polka-dot bow tie. He held a reporter's notebook in his left hand and a pen aloft in his right, not as if he were preparing to write, but rather as if he were presenting it as a symbol of truth. His face was clean-shaven, his lips full and broad, his eyes shallow-set, and his gaze direct.[37]

The first exchange of letters between these two newspapermen, in October 1910, occurred during a difficult week for Arizona. The previous month, voters in the territory had chosen fifty-two delegates to the territory's Constitutional Convention. In the campaigning before the vote, many of the territory's papers had urged the election of delegates who would produce a document that would please Taft, the conservative Republican lawyer who occupied the White House. Republicans told voters that the most important goal of the election was to guarantee that Arizona would achieve statehood, and the best way to do that was to keep initiative, referendum, and recall -- the three pillars of direct democracy -- out of the constitution. Many Democrats, including speakers who had experience with the progressive constitutions of Oregon and Oklahoma, stumped the territory to urge adoption of initiative, referendum, and recall. In the voting of September 12, 1910, forty-one Democrats and eleven Republicans were elected to the convention. Thirty-nine Democrats and one Republican pledged to support initiative and referendum; thirty Democrats supported the recall of officeholders, including judges. Pima County, which included Tucson, sent its five opponents of direct democracy.[38] Blighton was not exaggerating when he told Scripps he had powerful enemies in Tucson.

The Arizona Constitutional Convention opened on October 10, 1910, and the delegates voted in favor of initiative, referendum, and recall. Territorial Governor Richard Sloan said the delegates' action meant that Arizona had as much chance of joining Russia as it did the United States.[39] But Arizona laborers supported the recall provision so they could get rid of judges who issued injunctions in labor disputes.

Arizona scheduled a vote on the constitution for February 9, 1911. The letters between Scripps and Blighton in the months before the vote completed the initial phase of their relationship. Blighton had sent Scripps copies of the *Voice of the People* in November, and although Scripps said his eyesight was too poor to read the four-page paper, he must have glanced at the headlines and surmised the contents. Scripps' letter on November 14, 1910, urged Blighton to avoid overkill. He said,

> [Y]ou must not . . . make the mistake of supposing that any normal human being can give more than a small fraction of his time and thought to serious subjects no matter how vital they may be.
>
> If you would attract a lot of readers among that very class of people whose votes and influence you need [in the February election] . . . you

> must gain their attention . . . by interesting them and entertaining them with discussions and stories which will appeal to them. . . . You cannot get their attention and awaken their interest with one long "preach."[40]

What interesting and entertaining stories did Scripps have in mind -- especially since Blighton could not afford to hire a staff? Scripps had the answer: Stories drawn from Scripps' NEA, which he offered to Blighton free for one year, and the United Press Association, which Blighton could receive at no expense above the telegraph cost.[41]

Receiving the gift, Blighton said, "I knew exactly how the children of Israel felt the morning they breakfasted on quails and manna,"[42] a statement that likened Scripps to Jehovah providing food in the desert. The gift marked Scripps' and Blighton's tacit acknowledgment of a mentor-protégé relationship: Scripps believed he had the wisdom and resources to help the *Voice,* and Blighton's acceptance of the handout signified his endorsement of Scripps' superior newspaper skills.

Blighton's next letters, dated December 2 and 10, 1910, said he had begun using the NEA feature stories. Three editorials from the NEA appeared in one issue of the *Voice,* he told Scripps, and he said he would install a women's page, sports and humor.[43] The December 23 edition, which survives, was an explosion of human interest stories that Blighton apparently received from Scripps and used according to Scripps' advice. The front page comprised a feature on a philanthropic Sunday-school teacher in Rome, Georgia, and a reprinting of the Christmas story from Luke and the Beatitudes of Matthew. Page two included an interview with Arctic explorer Frederick Cook and a feature from Chicago on an orphan worth $30 million. Editorials about the proposed Arizona Constitution and a story alleging corruption by Governor Sloan were confined to pages eight and nine.[44]

The Herman-Chomsky model suggests that media that challenge authority will be subjected to "flak," which they define as "negative responses to a media statement or program" and may include "letters, telegrams, phone calls, petitions, lawsuits, speeches and bills before Congress, and other modes of complaint, threat and punitive action."[45] Likewise, the extramedia influences of the Shoemaker-Reese model suggest the rise of pressures in a community to counterbalance iconoclastic journalism. Such pressures are apparent in the pages of Blighton's paper and in his letters to Scripps. Blighton's paper quoted a delegate to the Constitutional Convention as finding a link to socialism in *Voice of the People's* support for the right to recall judges, and thus painted Blighton as opposing the dominant ideology of capitalism.[46] The *Voice* reported the firing of a typographer at the *Daily Citizen* who defended Blighton's integrity to the *Citizen's* owner, who also happened to be a judge.[47] Advertisers deserted Blighton, too. The November 4, 1910, issue boasted four pages and seven columns of ads, but that ratio of advertising to news-editorial space steadily slipped. The ten-page December 23, 1910, issue had six columns of ads, and of the remaining issues that survive in the Arizona archive, only two have more than two columns of advertising. Normally, according to the Herman-Chomsky model, advertising pressure and flak nudge a deviant news medium into alignment with community elites, including government officials. But Blighton ignored these signals. In his case, the individual journalist -- the central influence on media content according to Shoemaker-Reese -- chose integrity over expediency, believing that the truth as he saw it and Scripps' money would lead to success.

Cruder attempts to influence Blighton's paper included the physical attacks that Blighton mentioned in his second letter to Scripps and criminal libel prosecutions in 1910 and 1911. Little is known about the 1910 cases, other than Blighton's accusations that the presiding judge, John H. Campbell, acted criminally in not reducing Blighton's bail.[48] More details exist concerning the 1911 cases. They were initiated by managing editor Williams, who doggedly pursued Blighton's allegations of receiving free railroad tickets. and by Pima County Probate Judge William F. Cooper, who objected to an editorial about Cooper's qualifications to help write the Constitution. Blighton won acquittal in both.

In countering the pressures he faced in 1910 and 1911, Blighton used Scripps' letters to boost his image as a man with powerful connections. Blighton said he showed his Tucson acquaintances the letter in which Scripps offered monetary assistance.

> [Y]our letter has created a great feeling of sympathy for me, personally. They reason thus: If a BIG man like Scripps goes behind the VOICE, we may expect to see it prosper, in spite of its enemies.[49]

Blighton's letter suggests that in the relationship between government and the press, and between labor and capital, a journalist's personal prestige adds to a paper's success and possibly its influence. Blighton apparently believed that widespread knowledge of his connections would push his paper toward financial security. Such beliefs ran counter to Scripps' earlier advice to Blighton, as well as his advice to his own editors that can be found throughout the E.W. Scripps Manuscript Collection: Readers choose a paper for its contents; a paper that cannot attract readers on its own merits is doomed. Likewise, the Shoemaker-Reese and Herman-Chomsky models link the importance of attracting and keeping advertisers to a news medium's long-term health.

Scripps' letter responding to Blighton indicated he was more envious than flattered. Scripps' grandfather helped settle Illinois; his mother persevered in the early days of Ohio; and his uncle had been a member of Missouri's Constitutional Convention. In each case, he said, a great state emerged from hardships. Such was the case in Arizona, he said.

> Don't think for a moment that you are fighting a losing battle. Don't for a moment imagine that Arizona is not destined to be in some one or more respects the greatest state in the Union. . . .

> I can truthfully say, Mr. Blighton, that reading your papers and reading your letters I envy you.[50]

Scripps told Colver, the head of the NEA, that he would like to have Blighton join the Scripps organization if he "continues to hold on." He said he was greatly attracted by Blighton's "most glorious fight" and would rather have his sons duplicate Blighton's experiences than be millionaires.[51] Thus the mentor-protégé relationship flowering in the final month of 1910 had parental overtones for Scripps, who vicariously shared Blighton's exploits much as a father shares a son's.

Those were the last letters to or from Blighton that can be found in the Scripps Manuscript Collection until July 1911. In the interim, Blighton continued to struggle to keep his paper publishing. Records of the First Judicial District of Pima County reveal his being summoned to court in March to promise to repay an old debt of $301 to the Tucson Printing and Publishing Company.[52] Also in the interim, Arizona voters endorsed the proposed constitution by a vote of 12,584 to 3,920. The constitutional fight then shifted to Washington as proponents of the progressive constitution sought the congressional and presidential support required for statehood. When Scripps and Blighton resumed writing, they circulated copies of *The Voice of the People* to members of the U.S. Senate and House, including Senator Miles Poindexter of Washington and Representatives Alfred Allen of Ohio and William Kent of California.[53] This marked Blighton's high-water mark in both political influence and his relationship with Scripps.

The growth of the business as well as personal aspect of the relationship can be seen in Scripps' letter of July 5, 1911, the first surviving bit of correspondence between the two in the Scripps archive after the letter of December 12. Scripps filled two pages with questions about Tucson and Blighton's background. He asked Blighton about his age and family; the population of Tucson and the territory within 100 miles of the city; Tucson's chances of becoming the state's dominant metropolis; Blighton's debts, income and assets; and other questions that signaled Scripps' deepening interest. But was it an interest in the man or his paper? Scripps' method of expanding his chain of papers was to lend money to a young publisher and take 51 percent of the profits if the publisher succeeded; Scripps absorbed the losses of failure.[54] Missing from the Scripps Manuscript Collection is any clear statement of Scripps' intent toward the *Voice* if Blighton made it successful; his comment to Colver that he might want Blighton in his organization could refer to a partnership, ownership, syndication or other form of relationship. A letter from Scripps to a prospective business partner in the summer of 1911 indicates a growing closeness between Blighton and Scripps, but it can be read two ways. In the letter, Scripps refused to become a stockholder in the *Arizona Republican* because "I have already become keenly and personally interested in a journalistic adventure in Arizona."[55] While that was an obvious reference to Blighton's paper -- Scripps did not have an Arizona newspaper of his own -- it could be read either as paternalistic support or as a hint of a formal business relationship.

Blighton's reply to Scripps' list of questions does not survive. It must have been satisfactory. Scripps' next letter, on July 14, offered the Arizona editor an immediate check for $500, plus a $200 check each month for the next five months. Other letters in the Scripps Manuscript Collection reveal that among Blighton's responses were disclosures that he had 1,500 subscribers, would break even with 3,000, and make a comfortable profit with 5,000. He charged twenty-five cents a month for the *Voice* but received little advertising because his pro-labor opinions antagonized "all the interests."[56] Scripps told Blighton to drop the Scripps name as Blighton wrote to progressively minded members of Congress and to Roosevelt.[57] Scripps also wrote his own note to Representative Allen, expressing confidence in Blighton -- "when you find a man as close-fisted as myself plunking down $1,500 cash you may be sure that the conditions which have so strongly appealed to me must be something out of the ordinary."[58] Money, to Scripps, was the strongest indicator of his fondness for Blighton's work.

One of Blighton's purchases after receiving Scripps' check was new stationery. His next letter to Scripps appeared on letterhead containing a new logo for the *Voice of the People.* It was the width of the writing paper and three inches deep, with black ink overlaying a green floral pattern. [59] Blighton's message made no mention of the cost or necessity of his new stationery. Instead, Blighton detailed his troubles with creditors, his hard work to maintain his paper, and his political ideas. For example, in addition to his newspaper work, he said that he had spoken to a crowd of 2,000 at a Labor Day meeting in Globe (and reported that the established newspapers refused to mention his speech) and printed 2,500 copies of a political platform for a friend's campaign.

Blighton gave Scripps a copy of Blighton's letter to Poindexter in which he took credit for the recall provision that Taft disliked:

> The recall of the judiciary, Senator Poindexter, went into Arizona's constitution as a result of the personal venom of this Judge Campbell [the judge who refused to lower Blighton's bail in a 1910], manifested toward myself. . . . Had it not been for his atrocious conduct on the bench, this provision might not have gone into the constitution.[60]

It is difficult to make an independent assessment of Blighton's impact on the constitutional process. Blighton's name does not appear in historian Jay J. Wagoner's account of the passage of Arizona from territory to state. More research, not only involving *Voice of the People* but also other contemporary Arizona newspapers, may shed light on this question. In any event, Congress decided not to delete the recall provision from Arizona's constitution, and it passed a resolution for statehood.

Taft vetoed the resolution on August 15, 1911.[61] Ten days later, the president said he would allow Arizona to become a state if it removed the recall of judges from the constitution. That sent the matter back to the people of Arizona. On December 12, 1911, the voters by a eight-to-one ratio amended the document to conform to Taft's wishes. It was clear both to Taft and to the voters that once Arizona was admitted as a state, it could amend its constitution once more and reinstate the recall provision -- which is exactly what happened. Arizona became a state on February 14, 1912, and the recall was restored the following November.[62]

The summer 1911 letters, in which Blighton described his political and newspaper work, marked the beginning of the decline of the Scripps-Blighton relationship. In his litany of self-congratulation on continuing to publish despite adversity, Blighton mentioned that his wife had gone to New York and would be unable to help him. Furthermore, she was refusing to accept money from him, he said. This statement caused Scripps some concern. He or one of his associates contacted the United Press office in New York City, where UP General News Manager Roy Howard sent a reporter to investigate about Mrs. Blighton.[63] The reporter did not find her, but was able to locate a friend of Mrs. Blighton's named Ruelberg. Howard summarized the reporter's findings in a letter and telegram. Frank Harris Blighton got a copy of the letter, along with a memorandum from the investigative reporter. The memorandum is not in the Scripps Manuscript Collection, but the telegram is. It cast a shadow on the crusader's image that Blighton projected in his letters to Scripps:

> Miss Ruelberg in 34th Street has letters telegrams [sic] from Blighton which wife refuses to open. Latter living Brooklyn refuses give Ruelberg her address, latter says Mrs. Blighton in serious financial difficulties over check for note cashes without funds to cover is trying to borrow thousand dollars absolutely refuses communicate with husband.[64]

After receiving Howard's letter and private memorandum, Blighton fired off a letter to Scripps. The old man did not answer. Instead, Scripps, who was ill and depressed,[65] referred the letter to his son James, who responded coolly. "You may expect from me that I will carry out whatever agreements my father has made with you, but nothing more," James Scripps said. While he added that he sympathized with Blighton's work and urged him to get a business partner, the younger Scripps said he had no one to recommend for the job and no time to help Blighton himself until the new year. In short, a cordial brush-off. No direct link can be established between the revelations about Mrs. Blighton and the cooling of the mentor-protégé relationship other than chronology: After Scripps received the telegram from Howard, the tone of the correspondence changes. Missing from the archive is a clear explanation of the decline; however, Scripps learned the unpleasant details of Blighton's marriage at roughly the same time that the *Voice* was foundering despite Scripps' assistance -- the final surviving copy of the *Voice* had only two columns of advertising amid ten pages of news, features, and a tiny notice that the paper's stockholders would meet the following evening.[66] The combination of financial and familial instability was likely the turning point in the relationship.

By the time 1912 arrived, the *Voice of the People* was dead. Blighton explained to Paine, Scripps' aide:

> I have kept the paper going in the face of a blacklist which has stripped me of advertising. Job work and subscriptions -- and the $200 a month aid from Mr. Scripps has done the trick. And NOW, right on the verge of SUCCESS, because I lack a few dollars to meet a payment on a mortgage (which I did not know would be due until March when in San Diego) I am OVERBOARD. The plant will be lost. The paper will go down. And WORST of all, I am without a nickel -- had to wait today until paper sales came in before I could eat.[67]

Paine's response -- if he made one -- was not filed with Scripps' papers. It matters little what he thought or said. The *Voice* ceased publication January 1.

The reason that Blighton eventually gave to Scripps, in a two-page letter containing many of Blighton's typographical errors but none of his capitalizations, was what he described as a campaign of judicial harassment. He did not mention a mortgage payment. He did, however, quote the grand jury of Pima County, which he said had summoned him in November 1911 to prove his paper's claims of political corruption. To wit: "Moved by Rule . . . that we ignore the evidence regarding forgery of school records presented by Blighton. Carried." And "we have carefully and conscientiously examined into the charges brought by Frank H. Blighton in his newspaper, *Voice of the People,* and find the same without any foundation whatever." He said he laid out these facts so Scripps would know he hadn't turned "yellow" when he let his paper expire.[68] It was important to Blighton to demonstrate that if could not meet his mentor's goals, he at least had followed his instructions.

A second letter six days later asked Scripps to help elect a federal judge endorsed by Blighton. Scripps said he was tired, and his response offered roundabout support. If others wrote and signed letters to the Senate and sent copies to Miramar, he would write also. While the letter called Blighton a fighter and a reformer, it did not invite a continued relationship. Scripps was finished with Blighton and the *Voice.* When the creditor who assumed Blighton's interest in the *Voice* asked Paine for a loan to revive it, Paine's six-line response expressed severe doubts that Scripps would spend more money in Tucson.[69] It appeared that Scripps was cutting his losses.

What had changed Scripps' mind about Blighton? Most likely were his failure despite Scripps' assistance, the results of Scripps' investigation into Blighton's marriage (why wouldn't his wife talk to him or take his money despite being destitute?), and the poor personal impression Blighton made during a brief visit to Miramar in July 1911. Scripps told a colleague that Blighton talked like a fool when he got excited.[70] The foolish impression likely put Scripps in a less-than-receptive frame of mind when Blighton wrote later about his legal problems. While government officials had a history of corruption in territorial Arizona,[71] Scripps had grown rich supervising a chain of papers that successfully exposed government malpractice. He probably believed that Blighton failed to be careful enough to prove his case -- if not in court, then in print. Unable to reconcile his views of Blighton as crusading iconoclast and Blighton as reckless fool, Scripps apparently opted for the latter and dropped the relationship. Of course, the historian has only Scripps' archive from which to draw conclusions. A construction of the relationship based on Blighton's archive, if it exists,[72] likely would differ, particularly if it fills in the missing details about Scripps' financial and proprietary interests in the *Voice*. To what extent would Blighton have interpreted the failure of the *Voice* as Scripps' failure? It is not a question that Blighton would have addressed to Scripps, from whom he hoped to receive further assistance in 1911 and 1915. Nor is the question likely to receive prominent display in Scripps' archive.

A pathetic appendix to the Scripps-Blighton correspondence arose in November 1915, when Blighton, after three years of silence, wrote Scripps a ten-page, single-spaced, disjointed letter from the office of a New York law firm. The letter is difficult to understand, stringing together half-explained references to politicians and magazines. However, Blighton once again asked Scripps for financial help, revealing that his wife was in prison and he was still in debt. He claimed he had found a story that was "the biggest, crookedest, foulest thing in the history of our American government -- but had little or no proof of the biggest end of it." The *New York American* and *New York World* had promised him big money for it, he said, but then had reneged. He said he took the story to Washington and confronted Secretary of State William Jennings Bryan with what he knew about President Woodrow Wilson's corrupt administration, but Bryan was no more forthcoming. Blighton said he was accosted by Secret Service agents, his wife tortured in a thirty-hour interrogation, and he had become the subject of a conspiracy to discredit him. These statements might have struck Scripps as they strike the modern reader -- as evidence of an unbalanced mind. But perhaps equally damaging was Blighton's revelation that Governor Sloan had won a libel suit over a story that Blighton had sold to *Everybody's Magazine.*[73] Although Blighton's letter said he could prove his case against Sloan, it added that *Everybody's* had settled the suit -- an unlikely scenario if such proof actually existed. Thus, Blighton had demonstrated his failure to be Scripps' kind of journalist. He had allowed government and corporate interests to get the best of him. Furthermore, his adherence to his political ideals without regard to financial concerns -- he had lost a lawsuit, ruined his own paper and damaged the finances of a national magazine -- would not have pleased Scripps, whose papers were both profitable and iconoclastic.

The correction run by *Everybody's* was revealing of the style of Blighton's journalism, which contributed to his troubles when he ran the *Voice of the People*. Blighton's article had alleged a conflict of interest in Sloan's sanctioning of a water contract. "The fact is that the contract under discussion was made long before Mr. Sloan was appointed Territorial Governor," the correction said. "There was no basis for identifying Governor Sloan with this contract in any way."[74]

Perhaps Scripps investigated Blighton's and *Everybody's* lawsuit, or Blighton's legal troubles at the *Voice.* Perhaps not. All he needed to revise his opinion of Blighton had been evident in the 1915 letter, as well as the earlier letters admitting defeat in Arizona. Scripps' half-page reply to Blighton said he could not respond to Blighton's call for help.[75]

Blighton had seemed such a bright prospect to the newspaper millionaire, who appears to have been reliving his youth vicariously through the *Voice*. But although the *Voice* may have influenced the shape of the Arizona Constitution, its editor's achievements could not outweigh his failures in the eyes of E.W. Scripps. For a year, they worked as mentor and protégé toward giving Arizona a political future that would include their beloved direct democracy -- a true "voice of the people." Personal elements then intervened, and Blighton's missteps despite Scripps' guidance spoiled their relationship. Yet this relationship remains instructive despite its failure. Scripps' letters reveal his philosophy that a paper must entertain as well as inform, and they demonstrate his willingness to blur the lines between politics and journalism, and between the personal and professional. These tensions are apparent in the Shoemaker-Reese and Herman-Chomsky models of influence on media content. The *Voice of the People* failed because even the support of a powerful man such as Scripps was not enough to offset the financial, political and legal pressures of the status quo that Blighton challenged in Tucson, Arizona. Blighton never achieved the readership or advertising support of a large enough slice of the Tucson citizenry to allow him the luxury of his iconoclasm, and future research should address whether there was more to Blighton's failure and Scripps' success than their skills as journalists. Blighton was more reckless than Scripps, but they aspired to the same political goals and fought the same pressures. Both knew the tensions between an independent-thinking publisher and his community. Such tensions, evident early in the twentieth century, resonate in the modern-day journalism in which the media's entertainment component, marketing strategy, and role in shaping political discourse are taken for granted.

NOTES

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[1] E.W. Scripps, *Faith in My Star: A Selection of His Own Words that Showcases the Vision and Vitality of E.W. Scripps*, Vance Trimble, ed. (Memphis: The Commercial Appeal, 1989), 125.

[2] Vance Trimble, *The Astonishing Mr. Scripps: The Turbulent Life of America's Penny Press Lord* (Ames: Iowa State University Press, 1992), 191-92.

[3] *Ibid.*, 192.

[4] *Ibid.*

[5] See Trimble, *Astonishing Mr. Scripps*, 306; and Scripps, *Faith in My Star*, 64-74.

[6] E.W. Scripps to Ben Heney, December 16, 1911, E.W. Scripps Manuscript Collection (henceforth EWS), Special Collections No. 117, Alden Library, Ohio University, Athens, Ohio.

[7] Estelle Lutrell, "Newspapers and Periodicals of Arizona," *University of Arizona Bulletin* 15 (July 1949), 33.

[8] Theodore Roosevelt, "Arizona and the Recall of the Judiciary," *The Outlook*, 98 (June 24, 1911), 378.

[9] Lutrell, "Newspapers and Periodicals of Arizona."

[10] The Arizona Historical Society has no donor records concerning the *Voice of the People*. "Our donor records are pretty poor for the early period, in any case, but it's possible that we have had it since it was published," library/archives co-manager Riva Dean said. See Riva Dean to the author, December 10, 1996. Letter in possession of the author.

[11] Pamela J. Shoemaker and Stephen D. Reese, *Mediating the Message: Theories of Influence on Mass Media Content* (New York: Longman, 1991).

[12] Edward S. Herman and Noam Chomsky, *Manufacturing Consent: The Political Economy of the Mass Media* (New York: Pantheon Books, 1988).

[13] Margo Murray, *Beyond the Myths and Magic of Mentoring: How to Facilitate an Effective Mentoring Program* (San Francisco: Jossey-Bass Publishers, 1991), 13.

[14] See the relationship of William Randolph Hearst to Arthur Brisbane and Arthur McEwen in W.A. Swanberg, *Citizen Hearst* (New York: Macmillian Publishing Company, 1961), and the relationship of Joseph Pulitzer to his mentor, Carl Schurz, and his protege, John Cockerill, in Swanberg's *Pulitzer* (New York: Charles Scribner's Sons, 1967); also see Pamela J. Kalbfleish and Andrea B. Davies, "An Interpersonal Model for Participation in Mentoring Relationships" in *Western Journal of Communication*, 57 (Fall 1993), 399-415.

[15] James Parton, *The Life of Horace Greeley* (Boston: Fields, Osgood & Co., 1869), 556-57. Greeley's letter to "Friend Fletcher" includes the following injunction: "Begin with a clear conception that the subject of deepest interest to an average human

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being is himself: next to that, he is most concerned about his neighbors. Asia and the Tongo Islands stand a long way after these in his regard. It does seem to me that most country journals are oblivious as to these vital truths. If you will, so soon as may be, secure a wide-awake, judicious correspondent in each village and township of your county, some young lawyer, doctor, clerk in a store, or assistant in a post-office who will promptly send you whatever of moment occurs in his vicinity, and will make up at lest half of your journal of local matter thus collected, nobody in the county can long do without it. Do not let a new church be organized, or new members be added to one already existing, a farm be sold, a new house be raised, a mill be set in motion, a store be opened, nor anything of interest to a dozen families occur, without having the fact duly though briefly chronicled in your columns. If a farmer cuts a big tree or grows a mammoth beet, or harvests a bounteous yield of wheat or corn, set forth the fact as concisely and unexceptionably as possible."

[16] See E.W. Scripps to C.D. Willard, September 9, 1911, EWS; and Trimble, *Astonishing Mr. Scripps,* 226.

[17] Kalbfleish and Davies, "An Interpersonal Model," 401.

[18] Trimble, *Astonishing Mr. Scripps,* 226.

[19] Frank Harris Blighton to E.W. Scripps, October 3, 1910, EWS.

[20] See Scripps to Willard, September 9, 1911; and Frank Harris Blighton to E.W. Scripps, January 12, 1912. Both are in EWS.

[21] Ben Heney to E.W. Scripps, November 16, 1909, EWS.

[22] Blighton to Scripps, October 3, 1910.

[23] E.W. Scripps to Frank Harris Blighton, October 5, 1910, EWS. Scripps was referring to his plans to start *The Day Book,* in Chicago. It began publication the next year.

[24] See E.W. Scripps, "Letter to a Young Editor," in *Damned Old Crank* (New York: Harper & Brothers, 1951), 170-79; and *ibid.*

[25] Scripps to Blighton, October 5, 1910.

[26] Frank Harris Blighton to E.W. Scripps, October 9, 1910, EWS.

[27] Revelation of charges of criminal libel, in which a journalist is jailed because a publication is viewed as seditious, would not have discouraged Scripps. Criminal libel has a proud and somewhat mythic history in American journalism. Among the journalists who have been prosecuted for criminal libel are John Peter Zenger, James Franklin and P.T. Barnum. Barnum wrote in his 1869 autobiography, *Struggles and Triumphs,* that "at the end of my sixty days' term the event was celebrated by a large concourse of people from the surrounding country. The court room in which I was convicted was the scene of the celebration."

[28] See "Sauce for the Goose," *Voice of the People*, November 4, 1910; and "The Territory of Arizona, Plaintiff, vs. Frank Harris Blighton, Defendant," Case No. A2296, Justice Court, Tucson Precinct, Pima County. The records of the criminal and civil cases

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against Blighton are difficult to locate and difficult to read, having faded before or after being microformed. The filing system of Superior Court in Tucson does not indicate the nature of territorial cases in its index, nor does it indicate the length of the cases. In addition, no records of testimony in Blighton's cases could be found.

[29] Blighton to Scripps, October 9, 1910.

[30] See "Growth of Tucson Is Being Impaired," "King of Tucson Wants It All," "Peon Laborers Are High-Priced," "Citizens Should Hold Massmeeting," "Catch Vegetable Trust in Net," and "Terrified at a Shadow!" All are in *Voice of the People*, June 10, 1910. Microfilm of this and the other issues of *Voice of the People* held by the Arizona Historical Society is in the author's possession.

[31] See "The Initiative and Referendum Struggle" and "The Pima County Beast Turns Pole-Cat!!," *Voice of the People*, November 4, 1910.

[32] Robert F. Paine to William B. Colver, December 9, 1910, EWS.

[33] Trimble, *Astonishing Mr. Scripps*, 274-75.

[34] *Ibid.*, 276.

[35] Scripps to Willard, September 9, 1911.

[36] The source for Blighton's year of birth is the *National Union Catalog, Pre-1956 Imprints*, 61. The reference work lists him as the author or co-author of three short works. His year of death is unknown.

[37] *Voice of the People*, May 19, 1911.

[38] Jay J. Wagoner, *Arizona Territory 1863-1912: A Political History* (Tucson: University of Arizona Press, 1970), 458-60.

[39] *Ibid.*, 475.

[40] E.W. Scripps to Frank Harris Blighton, November 4, 1910, EWS.

[41] Scripps to Blighton, November 14, 1910.

[42] Frank Harris Blighton to E.W. Scripps November 16, 1910, EWS.

[43] Frank Harris Blighton to E.W. Scripps, December 10, 1910, EWS.

[44] See "How the Sunday Lady Brought Santa Claus to America's Rip Van Winkles," "The Christmas Baby Today and the Babe in Bethlehem," "Missing Explorer at Last Breaks His Long Silence," "Don't You Feel Sorry for This Poor Little $30,000,000 Heiress-Orphan?," "Our Caesars," and "Arizona's Governor to Keep Lid on Affairs." All are in *Voice of the People*, December 23, 1910.

[45] Herman and Chomsky, *Manufacturing Consent*, 26.

[46] "Thank You, Mr. Lynch!," *Voice of the People*, November 4, 1910. Blighton

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considered the attack made by Graham County delegate A.R. Lynch to be a left-handed compliment.

[47] "You're Fired!," *Voice of the People*, May 26, 1911.

[48] Judge Campbell issued his bail ruling on November 22, 1910. Unfortunately, no copies of the *Voice* exist between November 4 and December 2, 1910. Blighton discussed Campbell's ruling, but not the basis of the libel charge, in the December 2 issue. Blighton said Campbell's unfairness served as an example of the unchecked power of judges that Arizona citizens ought to halt by adopting the recall provision.

[49] Frank Harris Blighton to E.W. Scripps, December 2, 1910, EWS.

[50] E.W. Scripps to Frank Harris Blighton, December 12, 1910, EWS.

[51] E.W. Scripps to William B. Colver, December 12, 1910, EWS.

[52] "The Tucson Printing and Publishing Company, a Corporation, Plaintiff, vs. Frank H. Blighton, Defendant" Case No. 4860, First Judicial District Court, Pima County. This is the only case involving Blighton that is listed in the *Pima County District Court - Index to Actions, 1875-1910.* Unfortunately, the Arizona Department of Library, Archives and Public Records does not have an index to civil cases for 1911 and 1912. See John H. Akers to the author, May 9, 1995. Letter in possession of the author.

[53] See William Kent to E.W. Scripps, August 4, 1911; Alfred Allen to E.W. Scripps, August 7, 1911; and Frank Harris Blighton to Miles Poindexter, July 22, 1911. All are in EWS.

[54] Jean Folkerts and Dwight L. Teeter Jr., *Voices of a Nation: A History of Mass Media in the United States* (New York: Macmillan Publishing Company, 1994), 361.

[55] E.W. Scripps to Sam Clover, May 17, 1911, EWS.

[56] See E.W. Scripps to Negley D. Cochran, August 8, 1911; and Scripps to Willard, September 9, 1911. Both are in EWS. The letter to Willard described Blighton as a mystic/"Hindoo" and said, "A year ago I considered him a 'hundred to one' shot. Now I think he is a 'twenty to one' shot."

[57] E.W. Scripps to Frank Harris Blighton, July 14, 1911, EWS.

[58] E.W. Scripps to Alfred G. Allen, July 30, 1911, EWS.

[59] Frank Harris Blighton to E.W. Scripps, July 23, 1911, EWS.

[60] Blighton to Poindexter, July 22, 1911.

[61] Wagoner, *Arizona Territory*, 476, 478.

[62] *Ibid.*, 481.

[63] Blighton's and Howard's letters do not include her first name.

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[64] Roy W. Howard to John P. Scripps, Western Union telegram, October 9, 1911, EWS.

[65] E.W. Scripps to Frank Harris Blighton, January 25, 1912, EWS. Scripps was depressed about the guilty plea entered by two anarchists in the bombing of the *Los Angeles Times*. Scripps had believed in the innocence of the two men, who were defended by Scripps' friend Clarence Darrow.

[66] *Voice of the People*, September 22, 1911.

[67] Frank Harris Blighton to Robert F. Paine, October 27, 1911, EWS.

[68] Frank Harris Blighton to E.W. Scripps, January 15, 1912, EWS.

[69] See L.J. Boudreaux to Robert F. Paine, January 25, 1912; and Paine to Boudreaux, January 30, 1912. Both are in EWS.

[70] Scripps to Willard, September 9, 1911.

[71] William H. Lyon, *Those Old Yellow Dog Days: Frontier Journalism in Arizona* (Tucson: Arizona Historical Society, 1994), *passim*.

[72] The author was unable to find any Blighton archive.

[73] Frank Harris Blighton to E.W. Scripps, n.d., EWS. The letter was filed with 1917 correspondence, but Scripps' reply was dated November 4, 1915.

[74] "Straight Talk With Everybody's Publishers: A Correction," *Everybody's Magazine* 31 (September 1914), 431.

[75] E.W. Scripps to Frank Harris Blighton, November 4, 1915, EWS.

Perceptions of Newspaper Bias in a Local Environmental Controversy

by

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ABSTRACT

This study examines how perceptions of bias in local newspaper coverage relate to communication and participation in an unwanted landfill siting. Residents living within a one-mile radius of the proposed site received mailed questionnaires measuring attitudes, perceptions of bias in local newspaper coverage, communication behaviors, and policy-influencing activities concerning the proposed landfill. Analysis of responses (n=267) suggests perceptions of bias were unrelated to residents' newspaper reading behaviors and only slightly related to participation in the controversy.

INTRODUCTION

While mass media are frequently cited as sources for risk information (e.g., Ostman and Parker, 1986/1987; McCallum et al., 1991), their roles in local environmental conflicts can vary considerably. Research on local media suggests that sometimes media can "trigger" or precipitate a conflict, help to define a conflict, help to legitimate a conflict, or bestow status on certain positions within that conflict (Tichenor et al., 1980, pp. 113-114). Other times, their roles may be negligible.

For instance, what if local media are perceived as biased? Would it affect citizens' use of the media as sources of risk information or impact citizens' activities in relation to the controversy? Some research suggests that citizens do not expect local media to be unbiased, and perceptions of bias do not lessen citizen satisfaction with the media (Burgoon et al., 1981). Yet given our nation's traditional view that U.S. media serve as the "watchdog" the public, if citizens believe the local media are biased against the public's interests, wouldn't we expect some dissatisfaction with or at least a little less reliance on local media as sources of information?

This study investigates the role of local newspaper coverage in a community faced with hosting an unwanted land use, a new county landfill. We were interested in how perceptions of bias in local newspaper coverage related to citizens' communication behaviors and policy-influencing activities in the environmental controversy. In particular, if citizens perceive local newspaper coverage as biased, are they more or less likely to depend on the newspaper for information about the landfill; furthermore, are they more or less likely to participate in the conflict? A field survey of residents living adjacent to the proposed site offers some answers to these questions.

PREVIOUS RESEARCH

Because of their visibility, media and the stories they tell are often perceived as having great influence over public attitudes. Consequently, they are often held responsible for the possible effects these stories have on their audiences. For issues involving environmental risk and policy making, in particular, researchers have pointed to media coverage as a possible factor in the amplification of social concern about risk (Kasperson et al., 1988). Some content analyses of media coverage of environmental risk lend support to this argument, as researchers have found that when covering risk, media sometimes mention harms more than benefits (Singer and Endreny, 1993) and are driven by dramatic considerations (Greenberg et al., 1989 Barton, 1988).

Some argue, however, that increased media coverage, regardless of the content, amplifies public concern about risk. In particular, Mazur (1981; 1990) proposes a "quantity of coverage theory," arguing that the greater the volume of media coverage about a risk, the greater the assessment of risk by the public—independent of whether the media content is balanced, positive, or negative. He continues:

> In the case of a local project, such as a waste-disposal site, extensive reporting increases fear in the adjacent community and generally leads to opposition against the facility, even if the treatment of the news is balanced (1990, p. 295).

Mazur argues that presenting a "balanced" story suggests all sides are equally credible and that even mentioning negative outcomes evokes more concern than no mention at all (1990, p. 311). He attributes the "alarmism" effect to the inattentive manner in which most people consume news, e.g., glancing at photos or scanning headlines, which are parts of the article that tend to be exaggerated to interest audiences. Mazur supported his argument by comparing media coverage of nuclear power during the 1980s to public opinion about nuclear power; he found that when coverage was greatest, opinions were most negative.

Mazur, however, makes little or no mention about other factors contributing to the increase or decrease in public concern about risk. As Dunwoody and Peters (1992, p. 218) point out, "social environments are rich places, and it is becoming increasingly clear that the mass media are but a subset of many channels available to individuals." Mass media may serve to alert public attention to an environmental risk, but once aware of the risk, people often use other channels of communication, such as interpersonal networks.

For instance, studies examining the influence of mass media on judgments about risk have found that people sometimes rely on media to assess whether society is at risk; however, they usually rely on personal experiences to determine personal risk. Tyler and Cook (1984) examined this notion as the "impersonal impact hypothesis," which posits that media coverage generates societal level, not personal level, judgments of risk. From their analysis of survey data, the authors conclude that mass communications may not be as effective at generating behavior change as other communications (a finding also suggested by Robertson [1976] in his study of seat belt campaigns) and that the more removed people perceive themselves from a risk, the less likely they are to take actions to avoid that risk. Park et al. (1996) found support for the impersonal impact hypothesis when investigating survey responses for factors influencing risk judgments about water contaminants, radon, AIDS, and heart disease. Their analysis showed interpersonal communication primarily drove personal concern about risk, while mass communication drove societal concern. Citizens scoring high on community involvement were, however, less likely to exhibit this discrepancy in concern.

Culbertson and Stempel (1985) identified a similar effect, termed "media malaise," wherein people use media to evaluate society's well being, but not their own. Examining how media coverage of health care influenced public attitudes toward health care, the authors found that when people thought media coverage of health care was negative, they also tended to view health care negatively. These tendencies were strongest when people rated health care at the societal rather than the personal level. The authors conclude that personal experiences were more important when audiences were judging for themselves than when they were judging for society.

Proximity to the risk also mitigates the influence of media coverage on personal assessments of risk. Wiegman et al. (1991) compared attitudes of residents living adjacent to a chemical plant to residents living 15 miles away from the plant regarding the potential risk of contamination. The authors hypothesized that residents living next to the plant would use direct experiences in a "verification process" to filter media information and downplay information contradicting their own experiences. Conversely, people living farther from the plant would depend more on media coverage. Should that coverage be alarming, they would perceive the risks greater than those living close to the plant would perceive them.

The authors analyzed media coverage about the plant and found it was generally negative. In addition, they found that people living adjacent to the plant were: (1) more negative about the media coverage, (2) less likely to use media for information, (3) more likely to rely on informal channels of communication, and (4) generally less concerned about the risks from the plant. In comparison, people living further from the plant were more concerned about the risks and said they relied more on mass media than interpersonal channels for risk information.

The authors discuss their findings in relation to Bandura's (1969, 1977, 1986) social learning theory, which holds that the more media dominate a person's life, the more people will learn vicariously from the media and less from direct experiences. In this sense, people living farther from the plant must rely on media for information about the plant and would take their cues from media stories, a sort of media-constructed reality.

Another explanation comes from research on "optimistic biases" (Weinstein, 1980; 1989; Weinstein & Lachendro, 1982), or those tendencies people have to see themselves less likely to experience a risk than others. In the case of the chemical plant, people living near the chemical plant may have downplayed the probability of risk. For instance, research has found that when people choose or are forced to "live with" a risk, due to economical, social, cultural, or political reasons, they may ignore a risk or prefer not to acknowledge its probability of occurrence (e.g., Lave and Lave [1991] on how people rationalize living in flood plains). Studies suggest, however, that direct exposure to a risk may alter attitudes and even create pessimistic biases (Dolinski et al., 1987), though this pessimism may be short-lived following a decrease in media coverage (e.g., Burger and Palmer [1992] on the aftermath of a California earthquake on residents' attitudes).

How trustworthy or credible people view an risk information source can also impact its influence on attitudes. For example, McCallum et al. (1991) found that while local media were survey respondents' most frequently cited sources of environmental risk information, media only scored mid-range on a trust index. In comparison, friends, relatives, and physicians were infrequent sources of risk information, but they tended to score very high on trust. Ostman and Parker (1986/1987) also found that although citizens must frequently cited newspapers and television as sources for environmental information, they though other sources, such as books or magazines, were more credible. In general, the authors found that respondents were quite critical of media coverage of environmental issues, with 58 percent agreeing that media were likely to adapt stories to fit their own political leanings, and 81 percent agreeing that media were likely to sensationalize human interest aspects of the story.

To summarize, while some have argued that the quantity of media coverage of risk influences public assessments of risk (e.g., more coverage about risk promotes more public concern about risk), other research suggests that media's impact may be differential or short-lived. Additionally, personal or direct experiences with the risk may amplify or mitigate the influence of media messages on personal risk judgments, as may opinions about the credibility of media coverage. Although mass media serve as frequent sources of environmental risk information, people tend to trust information from interpersonal sources more. Other research in communication suggests that interpersonal sources often carry more weight than mass-mediated ones in securing attitudinal or behavioral change (see, for example, research building on Katz and Lazarsfeld [1955] and Rogers [1995] on the role of interpersonal influence).

What has not been examined is how perceptions of media bias relate to attitudes and behaviors about environmental risk. Particularly, if local media are perceived as "teaming up" with the "opponent's" viewpoint, does that impact citizens' reliance on the newspaper for information about the conflict or their participation in the conflict? The following study endeavors to answer these questions.

Current Study

Building upon the above theoretical framework, this study examines the role of local newspaper coverage in an environmental conflict. The controversy erupted when an upstate New York county government proposed siting a new county landfill in one of its communities. Community residents opposed; a drawn-out and emotional debate ensued. Using field survey of residents' attitudes and behaviors, this study examines how perceptions of bias in local newspaper coverage related to residents' communication behaviors and participation in the environmental controversy.

The survey was commissioned on behalf of the community's Citizen's Advisory Committee (CAC) as a participation tool for identifying residents' concerns and opinions toward a variety of host-community benefit possibilities. A series of communication-related questions (not of particular interest to the CAC) were included in the questionnaire for subsequent and secondary analyses. The data from these questions allowed, with some limitations, to construct the conceptual framework for testable hypotheses.

Research Questions, Hypotheses, and Rationale

The first research question examines the relationship between citizens' attitudes toward newspaper coverage and their use of newspapers for information about the landfill. Did opinions about newspaper bias relate to citizens' use of the newspaper? Previous research identified a relationship between attitudes toward media coverage and use of media for risk information: people who thought newspaper articles lacked credibility were less likely to read them (Wiegman et al., 1991). However, earlier research suggested that audiences expected bias in local media and were therefore not overly negative about it (Burgoon et al., 1981). Thus, we were interested in investigating whether a relationship existed between perceptions of bias and newspaper readership, and if so, to identify the nature of that relationship.

The second research question examines the relationship between citizens' attitudes toward newspaper coverage and their participation in the controversy. Did perceptions of bias in newspaper coverage relate to their activities? For example, would people who believed newspaper coverage favored the county's position (i.e., wanting to site the landfill) be prompted to take action and protest, or would they perceive participation as somewhat of a "lost cause" and therefore not worth the effort?

Moving away momentarily from questions regarding perceptions of bias, this study's hypotheses focus on the relationship between communication behaviors and concern about the landfill. The first tests Mazur's (1981) quantity of coverage hypothesis, which contends that the more media coverage that an individual is exposed to, irrespective of the coverage's content, the more negative that individual will be about the risks. We hypothesized: (H1) People who reported reading more newspaper articles would also be more concerned about the landfill.

As noted earlier, we believe Mazur's hypothesis may oversimplify the relationship between media coverage and concern and ignore that media are among multiple information sources, among them interpersonal contacts. In particular, the number of times individuals talk with others about the landfill could also relate to how concerned they are about the landfill. Therefore, we also hypothesized: (H2) People who talked more with others about the landfill would also be more concerned about the landfill.

Finally, we wanted to examine how the number of newspaper articles respondents reported reading related to their participation in the controversy. That is, were citizens who read more articles also more likely to participate in the controversy? Studies suggest media coverage of risk influences concern primarily at the *societal* as opposed to the *personal* level (Tyler and Cook, 1984; Culbertson and Stempel, 1985); therefore, reading more articles may not make people feel personally more at risk. If people do not see themselves personally at risk, they may not act to reduce exposure to that risk, like becoming involved in the decision-making process. Thus, we hypothesized: (H3): The quantity of newspaper articles that citizens read about the landfill would not relate to their likelihood of participation in the controversy.

METHODS

Surveys

Questionnaires were mailed to all residents (n=368) living within one mile of the proposed county landfill site. This parameter was requested by the CAC to ensure that key stakeholders or residents directly impacted by the landfill decision were included in the sample. The questionnaire consisted of 48 questions, measuring approximately 140 variables. Questions in the survey addressed residents' concerns, their attitudes toward the proposed landfill, their attitudes toward landfills in general, their preferences among a range of host mitigation and compensation measures, and their activities related to the siting process. A total of 267 completed questionnaires were returned, yielding a 75 percent adjusted response rate.[1] Responses were entered into SPSS for analysis.

Analysis

To measure perceptions of bias in the newspaper coverage of the proposed landfill, the questionnaire asked a series of questions about the coverage: "Newspaper articles I have read favor my position on the landfill," "Newspaper articles are generally fair—unbiased in discussing the landfill," and "Newspaper articles favor the county position." Responses were scaled from 1 to 5 ("strongly disagree" to "strongly agree").

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[1] The 3-wave mailing included individually addressed and personally signed letters to each resident household. Of the 368 questionnaires, 13 were returned unanswered due to bad addresses or ineligible respondents (e.g., deceased), 3 were refused, and 267 were completed. The overall response rate of 72.6% was adjusted for the bad addresses and ineligible respondents yielding a response rate of 75.3%.

To gauge their exposure to local newspaper articles, respondents were asked whether they had read any articles concerning the landfill in the local newspaper during the past year and, if so, to estimate the number of articles.

To measure participation, citizens were asked a series of questions, such as whether they had written or called local media, talked to local or county officials, or attended any public meetings about the landfill. We focused on three behaviors: writing letters to the newspaper, talking to elected county officials, and participating in public meetings. Participation in public meetings was measured as "did not attend," "attended but did not speak," to "attended and spoke out." For all three factors, higher scores signified higher levels of participation.

To measure concern, the survey also asked respondents how "bad" they expected a list of possible negative effects of the landfill to be, from "very bad" to "somewhat bad" to "not bad" to "not sure." These included traffic effects (e.g., noise and litter), landfill site effects (e.g., litter, smells, animal pests, etc.), and other possibilities (e.g., pollution of private wells, changes in property values, pollution of county reservoir, bad images of this part of town, etc.). In total, survey responses to 15 questions were summed to provide a measure of respondents' perceptions of "bad effects" from the landfill (alpha=.92), where higher scores signified more concern.

Interpersonal communication was measured by asking respondents how many times they had talked with their spouse or members of the household, with neighbors, or with coworkers about the landfill in the past year. Choices were "not at all," "once or twice," "3 to 5 times," "6 to 9 times," or "10 or more times." These questions were added to form a measure of interpersonal talking behavior (alpha=.82).

RESULTS

Research Questions

Table I shows the range of responses to the questions about perceptions of bias in the newspaper coverage of the proposed landfill siting. Generally, there is a fairly uniform distribution in opinions about the newspaper coverage. Although 51 percent agreed that the newspaper was unbiased in its coverage of the landfill siting, 41 percent disagreed that coverage was unbiased. Regarding the direction of the bias, 45 percent of respondents agreed with the statement that the coverage favored the county position on the landfill, whereas 36 percent disagreed. Finally, 40 percent agreed with the statement that the coverage favored their own position, and 44 percent disagreed.[2]

To investigate whether the 40 percent who believed coverage favored their own position also thought coverage favored the county position (i.e., their personal position agreed with that of the county), we constructed two variables, each representing those who agreed or strongly agreed with the above two statements. The variables were negatively correlated (r=-.26, p=.000), suggesting that if respondents believed coverage favored their own positions, they were unlikely to believe coverage favored county positions, and vice versa.

Table II shows the bivariate correlations between variables, also illustrated in Figure 1. The results suggest some interesting biases, and not only on behalf of the newspapers. People who responded that the newspaper coverage favored their personal positions about the proposed county landfill were significantly more likely to also agree that the coverage was both adequate and

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[2] Was newspaper coverage of the landfill biased? Preliminary results of a content analysis of local newspaper articles appearing one year prior to the survey suggest that coverage was generally objective: 46 percent of the statements reported were neutral, 34 percent were critical of the county's position, and 21 percent were supportive of the county's position.

*un*biased (r=.25 and .47, p<.01). In comparison, those agreeing with the statement that the coverage favored county positions were significantly more likely to judge the coverage both *in*adequate and biased (r=-.33 and -.52, p<.01). Thus, it appears that respondents were less critical of newspaper coverage when they perceived coverage as favoring their personal positions. Logically, if they replied that coverage favored their personal positions, they should have also responded that the coverage was biased—even if it was biased in *their favor*.

The first research question explored the relationship between perceptions of bias in newspaper coverage and use of the newspaper for information about the landfill. Almost all of our respondents (99 percent) reported reading some newspaper articles about the landfill in the past year, with the average number of articles being 41. Furthermore, the results suggest that those who perceived coverage favored their personal positions were significantly more likely to read newspaper articles (r=.14, p<.05). Perceiving that coverage favored county positions or perceiving coverage was unbiased was unrelated to the quantity of newspaper articles that respondents reported reading.

The second research question concerned the relationship between perceptions of bias in newspaper coverage and citizen participation in the conflict. The results suggest perceptions of bias were unrelated to writing letters to the newspaper or participating in public meetings. Those who believed newspaper articles favored their personal positions were, however, significantly more likely to talk with elected county officials (r=.13, p<.05).

Hypotheses

The first two hypotheses tested the relationship between communication behaviors and concern about negative effects from the landfill. The first hypothesis stated that citizens who reported reading more newspaper articles would be more concerned about the landfill. The results support the hypothesis (r=.19, p<.01): the quantity of articles read increased with concern about the landfill. The second hypothesis predicted that citizens who reported talking more with family, neighbors, and coworkers about the landfill would be more concerned about the landfill. This hypothesis was also supported (r=.31, p<.01). In sum, people who were more concerned about the landfill also tended to read more newspaper articles and talk more with others about the landfill.

To determine which factor had the stronger relation to concern about the landfill, we ran the first test again, only this time we controlled for talking behavior. The significance between quantity of articles and concern about the landfill disappeared. When we ran the second test and controlled for number of articles, the significance between quantity of talking and concern about the landfill remained (r=.32, p,.01). This finding suggests that talking about the landfill has a stronger relationship with concern than reading newspaper articles.

The third hypothesis stated that the quantity of newspaper articles citizens reported reading about the landfill would not increase with increased participation in the conflict. The results do not support this hypothesis. Citizens who reported reading more newspaper articles were significantly more likely to talk with elected county officials (r=.36, p<.01), write letters to the local newspaper (r=.31, p<.01), and participate in public meetings (r=.36, p<.01).

DISCUSSION

Perceptions of bias in the newspaper coverage were fairly polarized, with about one-half believing that the coverage supported county positions and one-half thinking the coverage supported their own positions. Interestingly, when respondents thought newspaper coverage favored county positions, they thought the coverage was biased and inadequate. On the other hand, if they thought coverage favored their own positions, coverage was unbiased and adequate. Evidently, respondents' own biases were at work here.

We might have expected that citizens who believed coverage favored county positions would have written letters to the newspaper to voice their dissatisfaction or make sure their side was heard; yet, the results suggest otherwise. Perceptions of bias in newspaper coverage were unrelated to writing letters to the newspaper or participating in the public meetings. Several explanations come to mind. First, attending meetings or writing letters to the local newspaper requires time and motivation that citizens responding to our survey may not have had. Second, should some respondents have been motivated to attend meetings or write letters to the newspaper, one deterrent could be that they feared an attempt to present another viewpoint would be "attacked" in the public forum or editorial page. Third, respondents may simply be negative about the decision-making process and believe nothing positive would come of their involvement.

Interestingly, those who thought coverage favored their personal positions (yet, according to them, were still "unbiased") were more likely to have talked with elected county officials. Perhaps perceiving their own position as advocated in the newspaper gave our respondents added confidence of local support and made them more willing to talk with those involved in the decision-making process.

Concern about the landfill was related to the number of newspaper articles respondents read. Those who reported reading more articles were more concerned about the possible risks of hosting a landfill. Concern about the landfill was also related to talking with family, friends, and coworkers about the landfill. The use of partial controls on the analysis suggests, however, that conversations with others offers a better gauge of overall concern in this study than quantity of newspaper articles. Thus, while the findings lend support to Mazur's quantity of coverage hypothesis, the support is tempered by the demonstration of interpersonal communication's relation to concern about risk.

The strong relationship between the number of articles read and the number of times respondents talked with county elected officials, wrote letters to the newspaper, and participated in public meetings was unexpected, given that previous studies have shown mass media are often ineffective at generating action at the individual level. One explanation for this discrepancy may be that the earlier studies measured personal vs. societal on a much larger scale (i.e., U.S.-wide) than our study, which looked at personal vs. societal in one community. Although studies have examined local media impact on community involvement (e.g., Stamm et al., 1997), few have examined media and community involvement within a risk-based context. One that did found that local community involvement seems to mitigates the differential impact of risk perceptions (Park et al., 1996). Additional studies are needed to examine local media's impact on risk perceptions at the community levels.

CONCLUSIONS

This study offers one example of the role of local newspaper coverage in a local controversy. The findings are at the micro- rather than macro-level; generalizations should therefore be applied cautiously. Though communities often share the very common experience of facing a locally unwanted land-use, the role of newspapers is likely to vary considerably. In addition, the nature of cross-sectional data precludes making "cause and effect" assumptions. Therefore, we hesitate to state, for example, whether concern about the landfill preceded reading about it in the newspaper, or vice versa.

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Still, it seems clear that residents in this community used the local newspaper as a source of information about the landfill—whether to confirm information received via interpersonal channels or gather information for conversations with others. Moreover, it seems that perceiving newspaper coverage as biased did not decrease their reliance on newspapers for information about the landfill.

Why would residents continue to read articles they perceived as biased or favoring county positions? One possibility is that their information-gathering behaviors were routine, and perceptions of bias were insufficient to prompt them to seek out new information channels (not to mention that they may have still considered the newspaper useful for other sorts of information). People may perceive a source as biased, and interpret it as such, but they are unlikely to change traditional consumption behaviors over a few incidents. Few would argue that it is easy to change behaviors. Similarly, perceptions of bias in the newspaper may not motivate people to cancel a subscription or seek out new sources of information, i.e., to change their media consumption behaviors. As some have suggested, people may even expect local media to be biased (Burgoon et al., 1981).

Perceptions of bias in newspaper coverage were also not directly related to concern about the landfill. Indirectly, however, a relationship exists. Those who thought coverage favored their own positions were more likely to read newspaper articles, and those who read more newspaper articles, tended to be more concerned about the negative effects of the landfill. Again, our data do not demonstrate cause and effect; therefore, the order of these relationships remains unclear. It seems, however, that reading articles tended to reinforce these citizens' concerns about the landfill, as opposed to alleviating them.

Finally, perceptions of bias were unrelated to whether citizens chose to become involved in the controversy, with the exception of those who thought coverage favored their own positions. Believing coverage was aligned with county interests or was just plain "biased" did not appear to motivate citizens to become involved in the decision-making process.

Table I. Description of Responses to Questions on Bias in Newspaper Coverage[a]

		Strongly Disagree	Disagree	Not Sure	Agree	Strongly Agree
Articles favor county	Count	25	65	41	67	33
	%	6.8%	29.4%	18.6%	30.3%	14.9%
Articles are unbiased	Count	28	63	17	102	11
	%	12.7%	28.5%	7.7%	46.2%	5.0%
Articles favor my position	Count	32	64	35	68	19
	%	14.7%	29.4%	16.1%	31.2%	8.7%

[a]Responses range from 1=Strongly Disagree to 5=Strongly Agree.

Table II. Pearson Correlations[a]

Variables	Articles are unbiased	Articles favor my position	Coverage is adequate	Number of articles read	Expect bad effects from landfill	Times talked with family, etc.	Times talked with officials	Letters written to local paper	Participate in public meetings
Articles favor county	-.524**	-.495**	-.327**	-.041	.061	-.013	-.115	-.034	-.119
Articles are unbiased		.474**	.329**	.071	-.004	.000	.038	-.113	.091
Articles favor me			.252**	.143*	.075	.008	.130*	-.004	.106
Coverage is adequate				.160*	-.065	-.137*	.025	-.065	.024
Number of articles read					.188*	.312**	.355**	.311**	.359**
Expect bad effects						.349**	.236**	.185*	.200**
Talked with family, etc.							.318**	.183**	.374**
Talked with officials								.481**	.428**
Letters to local paper									.365**

*. Correlation is significant at the 0.05 level (1-tailed).

**. Correlation is significant at the 0.01 level (1-tailed).

[a] Listwise N=192

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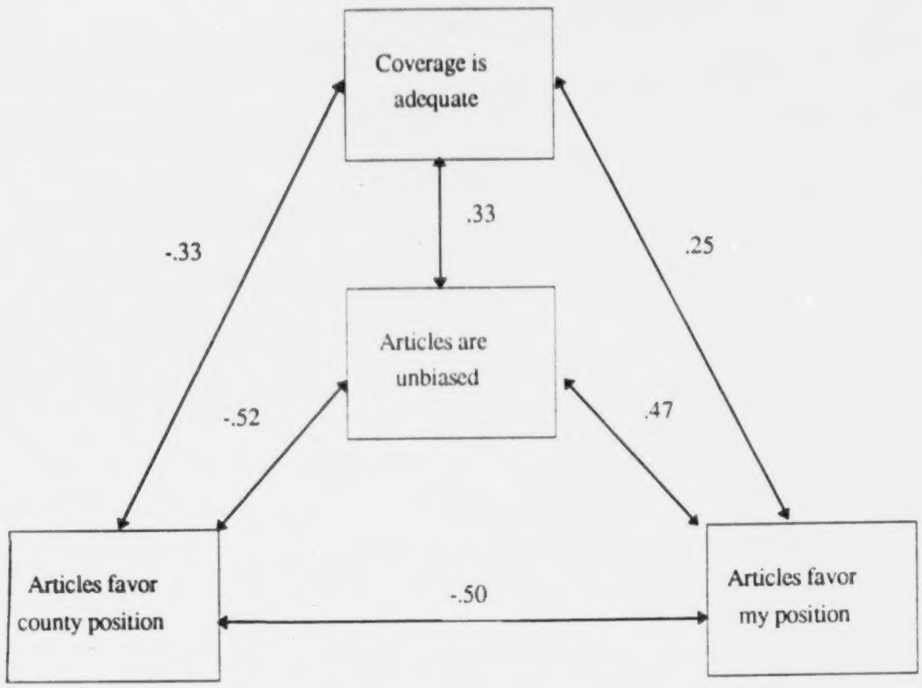
Figure 1. Diagram showing relationships between variables[a]


Coverage is adequate
.33
-.33
.25
Articles are unbiased
-.52
.47
Articles favor county position
-.50
Articles favor my position

[a] Pearson correlations between variables are all significant at the 0.01 level.

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Does Liberalization Lead to Greater Competition? The Case of Indian Telecommunications

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Running head: Telecom liberalization

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Abstract

Theorists have long asserted that liberalization or the removal of barriers to market entry engenders the growth of competition. This paper examines the tenability of this claim by tracing the impact of recent liberalizing policy initiatives on India's telecom sector. Here it finds that despite such initiatives, a purely competitive policy regime has failed to emerge due to certain political and economic factors prevalent within the Indian context. And drawing on the empirical evidence uncovered it suggests the need to re-examine the asserted linkage between liberalization and competition.

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Does Liberalization Lead to Greater Competition: The Case of Indian Telecommunications

While the last quarter of the twentieth century has witnessed varied economic changes, ultimately the period may be best remembered for its decisive shift towards wideranging economic decentralization and decontrol (Gayle & Goodrich, 1990). For during this time, motivated variously by ideological imperatives, considerations of economic efficiency or the need to succeed in the global economy, states have increasingly embraced policies aimed at introducing or expanding competition within various economic sectors. One such sector has been that of telecommunications, which has witnessed numerous attempts to introduce competitive forces that are believed to result both in greater allocative efficiency as well as better service provision (Baughcum, 1986). Moreover, such attempts have not been confined to the developed market economies alone, but have emerged globally in a "bandwagon effect," with nations ranging from those of Eastern Europe to Asia, all initiating reforms aimed at dismantling longstanding telecom monopolies (Duch, 1991).

In order to propel these reforms, governments have typically relied on "liberalization," or the removal of barriers to market entry, arguing that this measure results in the opening of industries to multiple players and thus engenders the growth of full scale competition (Straubhaar, 1995). Yet, as numerous public policy debates indicate, disjunctures frequently exist between the original intent and the eventual outcomes of policy measures. Consequently, it becomes necessary to investigate whether policy prescriptions do actually accomplish their stated objectives and that is what this paper sets out to do with regard to telecom liberalization policies. More specifically, it focuses on the recent introduction of liberal policy initiatives into India's telecommunications sector,[1] and sets out to examine whether *liberalization does in*

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[1] The term telecommunications here refers specifically to basic and long-distance telephone services, mobile communication such as cellular and paging services and value added services such as e-mail or voice mail services. The term does not include broadcast or multimedia sectors which are legally separated from telecom services in India.

fact lead to the creation of competition? with competition being defined as a marketplace condition characterized by the presence of multiple players providing similar products and operating freely within a given sector (Gomery, 1993; Bolter, McConnaughey & Kelsey, 1990).

Surveying the telecommunications policy literature, it would seem that this question is almost unequivocally answered in the affirmative. Indeed, in much of the literature dealing with this issue, the causal connection between the introduction of liberal policy initiatives and the emergence of competitive forces is considered almost axiomatic, with many accounts viewing the two as synonymous with one another. For instance, Duch (1991), sees the adoption of liberalization policies as "maximizing efficiency gains by sweeping away artificial barriers to market entry and resulting in the creation of wideranging competition involving numerous firms supplying more or less identical products and services," (p.6). Similarly, Petrazzini (1993; 1995), argues that typical liberalization measures which entail the removal of governmental controls and allow multiple firms unrestricted entry into the market engender the " opening up of telecommunications industries to a range of competitive pressures," (p.110). And finally in the same vein Snow emphasizes that it is the process of liberalization which creates and reinforces competitive practices within telecommunications (1986).

In fact, many of authors contend that as a form of decontrol, liberalization is far more likely to generate competition than other forms of economic decentralization such as either privatization which involves the sale of state owned enterprises to private operators, or deregulation which results in the reduction of state controls over firms in the marketplace (Starr, 1990; Biersteker, 1993). This, they argue, is because unlike liberalization, these strategies tend to focus almost exclusively on the replacement of public control of industries by private ownership, with the introduction of competition being at best a secondary issue. As one scholar puts it:

> directed at limiting the state's intervention within the economy, measures such as privatization and deregulation frequently fail to take into account the question of competition and often result simply in the substitution of public monoplies by private ones. It is therefore through measures of liberalization which emphasize the removal of barriers to the entry of multiple operators into an industry that that a truly competitive environment can be created." (Petrazzini, 1996. p16.).

While the theoretical literature thus seems to decisively underscore the linkage between liberalization and competition, based on empirical evidence this study takes a rather different position. Essentially, it argues that in the Indian case, while the introduction of liberalization has resulted in ending the state's long-standing monopoly and "opening" various segments of the telecom sector to private investment, it has not led to the automatic growth of a "purely" competitive environment, characterized by a multiplicity of firms, providing similar products and possessing the freedom to enter and exit the market at will. Instead, the study finds India's telecommunications sector is currently marked by the presence of a complex continuum of economic conditions characterized by varying degrees of competition. These include: pure competition in the case of value-added services; monopolistic competition which although involving several firms has only a few of them competing with differentiable products in the case of certain segments of the equipment sector; a duopoly with two operators within the realm of basic and mobile services and finally a monopoly with a single service provider and effective barriers to entry in the area of international and domestic long-distance services. [2].

Further, it suggests that the emergence this continuum of competitive conditions rather than a purely competitive framework, despite the introduction of liberalizing policy initiatives, has occurred due to the existence of powerful local dynamics which by design or default militate against the introduction of such a policy regime in India. These dynamics, according to the study are of two kinds, one economic and the other political. The economic dynamic affecting the emergence of competition within the Indian telecommunications system, is the nature of the country's market structure, particularly its uneven demand patterns which render it unable to attract multiple players into many open areas of the sector--a fact that naturally limits the development of competitive pressures and forces. The political dynamic that has restricted the emergence of a purely competitive regime is the government's contradictory stance towards the liberalization of telecommunications. For this contradictory stance, which has arisen out of the government's electoral need to accomodate diverse groups opposed to the introduction of a competitive regime, has frequently led it to take decisions that inhibit the growth of competitive tendencies. And together, these dynamics, the study argues have thus given rise to mixed outcomes with regard to competition.

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[2] The definitions of the different forms of market-place conditions are based on those articulated in Gomery (1988; 1993) and Scherer & Ross (1990).

In sum then, the paper thus emphasizes that the mere adoption of policy measures is not sufficient in itself to generate particular outcomes, as many theorists seem to imply. Instead, it emphasizes that policy outcomes are complex developments, whose emergence and nature are influenced by a variety of contextual forces. And it is these policy outcomes that the study sets out to explore within India'a telecom sector. In this context, it first delineates the new liberalization measures, examining their impact on different segments of the telecom system, particularly in terms of the growth of competition and finally analyzing the reasons underlying the trajectory of developments within the sector as a whole.

II

India's Telecommunications Policy: Past and Present

The Initial Monopoly:

From the mid 19th century when it was first established, to the early 1990s the telecommunications system in the Indian subcontinent has been characterized by total governmental control. In fact, both telegraphy which was introduced in 1857 and telephony which began in 1885, were established as state monopolies under the Telegraph Act of 1885, with the British government citing the maintainence of defense and security as the rationale for such control (Headrick, 1988). This organizational structure persisted after independence in 1947, because the post colonial government argued that in view of the high fixed capital costs involved in the establishment of a network, it was inefficient to have more than one organization providing telecom services, since competition would only result in different firms duplicating high capital investments without benefitting from economies of scale. In other words, it argued that telecommunications constituted a natural monoply and should therefore be controlled by a single operator. Further, it asserted that since it was also crucial to national development, this operator should be the state. Thus despite a change in regime, the Indian telecom system remained a centrally controlled monopoly, that for the first 40 years of India's statehood functioned as an integral component of the country's expanding and even hegemonistic state sector (Nandy, 1989). As one scholar put it, " the system was managed by the government in New Delhi through circulars, directives, and fourteen volumes of rule books," (Mody, 1995).

Changing the Rules:

This situation first began to change in 1987 when the government issued its Telecom Mission Statement, a document that outlined the goals and strategies of India's future telecommunications planning (Tandon, 1993). This document which identified telecommunications development as a "national mission," called for:

> the reorganization of the existing infrastructure into an efficient network that could incorporate and serve the telematic needs of all major sectors and users in the country, both at the present and in the future...(1987, p.1).

And to this end, the statement made two basic recommendations. First, it called for the creation of a new Department of Telecommunications (DOT), separate from the postal system with which it had traditionally been joined. Second, it established two new public sector corporations, one to provide services to the metropolitan areas of Delhi and Bombay, and the other to manage international communications, which were empowered to introduce new technologies, tap capital markets and to create a more customer responsive management culture. While these changes, particularly the separation of telecommunications operations from those of the postal system, represented some initial steps towards the rationalization of India's telecommunication system, it was however only in 1991 that a substantive transformation of the system was initiated.

This process occurred somewhat circuitously, arising primarily as a result of the " opening" of India's economic system and its integration with the global economy. For this development, which was impelled partly by the country's acceptance of a structural adjustment program in return for loans from the IMF and the World Bank and partly by internal efforts to improve the growth rate, generated a national debate regarding telecommunications (Mody, 1995). This debate emerged as the international lending agencies and Indian technocrats decried the existing telecom system with its a teledensity of 0.89 lines per hundred people and a waiting list of 2.4 million phones as woefully inadequate and stated that its expansion was an essential pre-condition for functioning within the global economy (Vittal, 1993). They argued that without developing an efficient and widespread telecommunications system, India would be unable to attract foreign direct investment, improve the volume of local business or participate within the global economy and that since the state did not have the capital resources to undertake this task, it was necessary to open the system to market forces. As the Government of India's Economic Survey of 1993-1994 put it:

> The development of the telecommunications infrastructure is important not only because of its role in bringing the benefits of communication to every corner of India, but also in serving the new policy objectives of improving the global competitiveness of the Indian economy and stimulating both local and foreign investment. However, since it is beyond the capacity of government generated funding to come up with adequate funds for this task, there is no alternative but to decentralize the center and allow private operators to bridge the resource gap (p.143).

The specific mechanism through which this decontrol of the telecom sector was sought to be undertaken was the new National Telecommunications Policy. Articulated in mid 1994, this policy aimed to:

> to advance India into a world-class telecom service that would improve its competitiveness in the global market by the rapid expansion of access to telephones through the provision of telephones on demand, the integration of the rural population through the extension of universal service to all villages and the provision of the widest range of services, particularly to business users at reasonable prices (p1.).

And in order to achieve this objective, it proposed the "liberalization," of the telecommunications sector through the "elimination of the state's long-standing monopoly and the opening of the sector to multiple private operators on a competitive basis" (p.2). In adopting this policy, the government would thus seem to have all but abandoned its traditional rationales for monopolistic control, namely 1) that telecommunications represented a natural monopoly where it was economically inefficient to have more than one firm and 2) that it was a sector integral to national infrastructural development, whose control could not be left to market forces. Instead it has emphasized that not only is private sector investment a vital source of finance for the expansion of Indian telecommunications but that with recent technological advances, the costs of establishing networks have been so reduced that the natural monopoly arguements favoring single firm production have been rendered invalid. As a report of the Telecom Working Group within the government run Industrial Credit and Investment Corporation of India, put it:

> It is now the view of the government that liberalization or the accelerated entry of multiple private operators within the equipment and service segments of the telecom sector, through the increase in the levels of private equity participation including that of multinational corporations, the establishment of open and transparent bidding procedures as well as the simplification of rules and regulations...throughout the sector is not only desirable but necessary (1995; p.2.3).

And this change in position has had a wide-ranging impact throughout the telecommunications sector.

III

Tracing the Emergence of Competition: An Empirical Overview

Equipment

One of the first areas to be affected by the introduction of liberalizing policy measures within the telecommunications sector has been that of equipment. Indeed, whereas in the past, India's telecom equipment was exclusively provided by the public sector organization Indian Telephone Industries Ltd. or (ITI), this growing sector has now been opened to private operators in areas ranging from customer premise and switching equipment to mobile communication and transmission equipment. However, while barriers to market entry have been removed, empirical evidence seems to indicate that the extent of competition within the equipment sector varies considerably from segment to segment. For instance, in the area of customer premise equipment[3] in India, despite initial entry by multiple firms, after a brief shakeout period, the segment now appears to be an oligopoly, dominated by a few firms notably, Bharat Telecom, Tata Telecom, OKI, Ericsson and Fujitsu, who control most of the market ("Equipment manufacturers," 1996; DoT Annual Statistical Summary, 1996). Similarly, an oligopolistic pattern also seems to characterize the large switching equipment segment[4], which is effectively controlled by six large corporate combines made up of domestic firms acting in collaboration with established multinational technology providers both from the US and other countries. These include the link ups between Modi-Alcatel, Tata-AT&T and Siemens India with Siemens Germany ("Equipment manufacturers," 1996).

In the small switching segment however, the situation is somewhat different. Here, liberalization has not only brought the government's traditional monopoly to an end but has resulted in the entry of numerous firms within the market. However, despite the proliferation of firms in this area, only a few of them are in direct competition for particular categories of products, and consequently the resultant pattern of competition is monopolistic in nature. For instance, in the case of small switching equipment, GCEL, Natelco, BPL Telecom, Technicom and UTL compete to provide most of the switches for under 10,000 lines while AT&T, Hinditron, HTL Ltd., NEC, and ITI are the principal providers of switches for upto 25,000 lines (DoT Annual Report, 1996). Further, a monopolistically competitive situation has also been engendered by liberalizing policy initiatives in the area of transmission equipment. For in this area, even though both the wireline and wireless equipment segments are characterized by the operation of multiple firms, only a handful of firms effectively compete within the market for specific products such as jelly-filled cables, optical fiber cables, microwave equipment and VSAT terminals ("Getting connected," 1996).

While the small switching and transmission areas have thus come to be characterized by monopolistic

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[3] The term customer premise equipment refers to telephone hand sets, facsimile machines and private automatic branch exchanges or PBXs.

[4] Switching equipment establishes links between users of the network.

competition, the mobile communication segment is marked by the emergence of oligopolistic trends, with both the cellular and paging equipment segments being dominated by a handful of large players. These include Nokia, Alcatel, Motorola, AT&T, Siemens and Ericsson in the case of cellular equipment and Motorola, Casio, Phillips, Glenayre Inc. and Nokia in the paging segment which together supply the equipment for over 50 out of a total of 66 paging networks in the country (" Market Reports", 1996).

Thus while liberalization oriented initiatives have no doubt brought the state's long-standing and traditional monopoly to an end, allowing the entry of numerous private players into equipment manufacturing, the development of a purely competitive situation within the segment has nevertheless remained elusive.

Basic Services:

In addition to the equipment market, also affected by the introduction of the new liberal policy initiatives, has been the area of local telephony or basic services. Traditionally, a monopoly controlled and operated by the state through the Department of Telecommunications (DOT), this area has recently been opened up, with private players, both domestic and international, being allowed to enter the sector to provide basic services in competition with each other as well as the DOT (Guidelines for Induction of Private Sector into Basic Services, 1994). Under the present policy regime, which went into effect beginning August 1995, private firms are thus to be granted licenses to operate along with the DoT in each of the twenty geographic "circles" which correspond roughly to state boundaries in India (National Telecom Policy, 1994). These licenses are to be valid for a period of ten years. While with these steps the liberalization of the basic services segement has been put into motion, the development of wideranging competition however remains a questionable issue. Indeed, despite interest by both local firms and global telecom giants such as AT&T, US West, Bell Canada, British Telecom, and and Nippon Telephone and Telgraph all of whom were anxious to enter this sector (Purkayastha, 1996), its present condition are less than fully or purely competitive as Table 1 indicates.

Table 1

Telecom Circles	DoT in All Circles	Basic Services-Private Operators
1. Andhra Pradesh		Tata-Bell Canada
2. Assam		No bidder
3. Bihar		Usha
4. Gujarat		Reliance
5. Haryana		HFCL
6. Himachal Pradesh		No bidder
7. Jammu & Kashmir		No bidder
8. Karnataka		Hughes-Ispat
9. Kerala		No bidder
10. Madhya Pradesh		No bidder
11. Maharashtra		Hughes-Ispat
12. North East States		No bidder
13. Orissa		HFCL
14. Punjab		Essar
15. Rajasthan		Telelink-Shyam
16. Tamil Nadu		RPG
17. Uttar Pradesh (E)		No bidder
18. Uttar Pradesh (W)		HFCL
19. West Bengal		No bidder
20. Andaman & Nicobar		No bidder

Indeed, the table reveals that out of a total of twenty basic service "circles," eleven are characterized by the emergence of a duopolistic structure[5], with a single private operator competing against the DOT, while the remaining nine less lucrative "circles", having failed to attract private players, effectively remain monopolies with the DOT being the sole service provider in these areas ("Basic services update," 1996). In other words, India's basic services sector is thus defined by two types of marketplace conditions, neither of which approximate those of full scale competition.

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[5] While it can be argued that a number of firms operate in the basic and cellular services sector as a whole, firms can only provide services in the geographic circle for which they are licenced and since there are no more than two operators competing in any circle, the emergent structure is more appropriately categorized as duopolistic.

Domestic and International Long-distance services:

A sector that has essentially remained unaffected by the new telecommunications policy has been that of long-distance services, both domestic and international. Indeed, even though the policy calls for a removal of barriers that impede entry into this area and the opening these services to multiple players, these services continue to be tightly held state monopolies. Controlled by the government through the Department of Telecommunications and the Videsh Sanchar Nigam Limited (VSNL), a public sector organization, which provide domestic and international long-distance services respectively, this segment of has not seen any private investment due to the state's failure to initiate bidding procedures (Nicoll,1996). Moreover, the government has indicated that it is unlikely that bids for these services will be invited until the year 2000 (DoT Annual Report, 1995). And as a result, despite the articulation of a liberal policy, the absence of competition that currently characterizes this segment is likely to prevail atleast in the near future.

Mobile Communication Services: Cellular Telephony and Radio Paging:

Unlike other areas of the telecommunications sector which are characterized by the presence of the government or the public sector in one form or another, under the new policy regime mobile communication services have been defined as the exclusive preserve of private players (National Telecommunications Policy Statement, 1994). In fact, the government has stated that though it had initially considered establishing its own mobile network, it has now decided that cellular telephony and radio paging can be most efficiently developed if they are provided on competitive basis by multiple firms operating freely within the sector. And in order to facilitate this process, two years ago the government invited bids from the private sector to install, operate and maintain cellular and paging networks in both urban areas as well in rural areas where wire and satellite links are either unfeasible or expensive (DoT Annual Report, 1995).

However, despite this "opening" of the mobile communication segment to multiple operators, the emergence of purely competitive provisioning has remained elusive. For example, in the case of radio paging, while a large number of companies have established paging networks throughout the country and several more are in the process of doing so, there are important variations in the types of services that they offer and in each category of services it is a small number of firms that dominate. In the case of standard one-way paging it is companies such as Microwave Communications, Hutchison Max, DSS Paging Services, RPG Paging Services and Modi Telecommunications that control the market, particularly in the metropolitan areas as (Paging update, 1996). On the other hand two way paging services that enable remote tracking of vehicles and people and are typically used by large businesses are mostly provided by Motorola, an Israeli-American venture called Nexus Telecommunications Systems, MobileComm which is a subsidiary of Bell South and the locally based Eider Telecommunications (personal communication, P. Purkayastha, 1996). Thus, the pattern of competition that has developed in this area is essentially monopolistic in nature.

In the area of cellular telephony, the situation is however significantly less competitive. Indeed, in this case, as Table 2 indicates, a duopolistic structure seems to have emerged with no more than two licensed firms competing within the same geographic unit or "circle," (Barman, 1995). Moreover, as Table 2 also indicates, some less lucrative circles have only attracted a single operator and in these areas a monopolistic condition appears to prevail, while yet others have failed to elicit any bidders at all (Cellular services update, 1996). Thus despite liberalization, purely competitive conditions clearly do not seem to have emerged within the sector of mobile communications.

Table 2

SUCCESSFUL OPERATORS FOR PRIVATE SERVICES

TELECOM CIRCLES

CIRCLE	CELLULAR SERVICES	
Andhra Pradesh	Tata-Bell Canada	JT Mobile
Assam	Reliance-Nynex	No bidder
Bihar	Reliance-Nynex	Koshika-Usha
Gujarat	AT&T-Birla	Fascel (HFCL)
Haryana	Essar-Aircel	Escotel
Himachal Pradesh	Bharti	Reliance-Nynex
Jammu & Kashmir	No bidder	No bidder
Karnataka	Modicom	JT Mobile
Kerala	BPL-US West	Escotel
Madhya Pradesh	RPG-Airtouch	Reliance-Nynex
Maharashtra	AT&T-Birla	BPL-US West
North East	Hexacom-Shyam	Reliance-Nynex
Orissa	Reliance-Nynex	Koshika
Punjab	JT Mobile	Modicom
Rajasthan	Essar-Aircel	Hexacom-Shyam
Tamil Nadu	BPL-US West	HHS Comm.
Uttar Pradesh (E)	Essar-Aircel	Koshika
Uttar Pradesh (W)	Escotel	Koshika
West Bengal	Reliance-Nynex	No bidder
Andaman & Nicobar	No bidder	No bidder

Value-Added Services:

The segment of value-added services, like mobile communication, has been left completely open to a multiplicity of private players under the terms of the new liberalization oriented telecom policy. In fact, under the new policy, the government has not only issued licenses, on a "non-exclusive basis" to a large number of firms providing services such as voice-mail, electronic mail, video and audio text services, data transmission as well as video-conferencing services, but the license fees charged have also been significantly lower than those in the case of cellular and basic service licenses (Telecom Working Group Report, 1995). Moreover, the start up costs for such services have also been kept comparatively low due to governmental efforts to provide low-cost infrastructure to the providers of value-added services, typically in the form of reasonably priced leased lines and equipment. Motivated chiefly by the Indian government's urgent need to expand the country's business communications network which is deemed critical to economic success in the global arena, these efforts have thus meant that the provision of value-added services can be undertaken without incurring large capital expenditures.[6] And coupled with the licensing policy, they have made entry and exit within this segment extremely easy. Consequently, there has been an exponential growth in the number or firms offering value-added services-- making this segment the only one within India's telecom system, where liberalization has actually engendered the creation of perfectly competitive conditions.

IV

Dynamics Underlying the Trajectory of Telecom Developments

From this delineation of recent developments within the various segments that comprise the Indian

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[6] This is in sharp contrast to the case of telephony, where basic and cellular service operators have had to undertake considerable initial expenditure by either establishing an independent network or using the existing DoT network at great expense.

telecommunications system, it is evident that despite the introduction of a new policy of liberalization, the Indian telecom system has not witnessed the growth of a truly competitive environment. Indeed, aside from the area represented by value-added services, which manifests the presence of "multiple sellers offering similar goods and services and operating freely within the market," that characterize competition, other segments are characterized by far more limited types of competition. This situation which is clearly contrary to theoretical expectations, has been produced by a combination of dynamics, both of which serve to constrain the development of competitive forces.

The Economic Dynamic:

The first of these dynamics which is economic in nature, is the character of the Indian market, particularly its highly skewed and uneven demand patterns which affect either the willingness or the ability of multiple firms to enter it, and in doing so restrict the development of competition within it. Affecting both the service and the equipment segments of the telecom sector, these uneven demand patterns are manifest at different levels. One such level in the Indian context is that of geographic locale. Indeed, despite the widespread perception that as the world's sixth largest economy in terms of purchasing power[7], India collectively constitutes a vast and expanding market for telecom services, in reality, effective demand within the country is overwhelmingly concentrated within its urban-industrial areas that not only account for over 70 percent of its total economic output but generate more than 80 percent of the total telephone traffic and revenues (Report of Telecom Working Group, 1995). As a result there exist considerable variations in effective demand between predominatly urban areas and those of a more rural nature-- a fact, that has been clearly acknowledged in the government's classification of circles as being A, B or C category, and its fixing of license fees according to market size (DoT Annual Report, 1995).

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[7] The economy has been characterized as the sixth largest in terms of purchasing power because about 20 percent of its total population of 880 million have an annual income of over $1000.

Such variations seriously constrain the development of competition within telecom services, because firms are unwilling to invest in unprofitable areas, and instead prefer to enter only those areas where a substantial degree of effective demand exists and where revenue generation is consequently more certain.[8] This is amply illustrated in the case of both basic and cellular services. Here, we find that while category A circles represented by states such as Andhra Pradesh, Delhi, Gujarat, Karnataka, Maharashtra and Tamil Nadu have received bids for the provision of both cellular and basic services from at least one private firm, (in itself an unsatisfactory situation from the point of view of competition)- many category B and C circles have been unable to do even that. For example, type B circles such as those of Madhya Pradesh, Kerala, East Uttar Pradesh and West Bengal and type C circles such as those of Assam, Andaman and Nicobar Islands have failed to attract any investors despite three separate attempts by the government to invite tenders (Barman & Singh, 1996). Similarly, with regard to cellular services, many of these B and C category areas have either attracted no bidders at all as in Jammu and Kashmir and Andaman and Nicobar Islands or have elicited bids from only one firm as in Assam and West Bengal ("DoT to," 1996).

In other words, there are thus numerous areas in India which have failed to attract multiple sellers for the provision of either basic or cellular services and in some cases both. And while this absence of competition would be problematic in almost any context, in the case of a country like India where per capita telephone penetration is extremely low, the implications are even more serious. Indeed, these emergent developments mean that firstly, the expansion of the telecom network on a scale that would ensure the provision of telephone on demand by 1997 in the urban areas and public telephones in 600,000 unconnected villages, (as envisaged by the new telecommunications policy), is unlikely to occur at the

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[8] The term effective demand refers to demand that is backed by the ability and has been used here to characterize the nature of demand that exists in urban, industrial areas as opposed to rural' areas in the Indian context, where demand exists but little ability to pay.

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desired pace. And secondly, and perhaps more importantly, consumers (including those in the cities) in the B and C type circles will either not have access to certain types of services or will have to rely on a single, monopoly operator over whose prices and quality of service they have little control.

While the development of competition within telecommunication services has been inhibited by uneveness in effective demand at the regional level, the emergence of a competitive regime within the equipment sector has also been limited by uneveness in demand patterns. In this context, the basic problem is the concentration of demand among a few large buyers within the Indian market, whose considerable control over operating conditions often makes it difficult for many interested firms to enter the market. This is clearly demonstrated in the case of customer premise and large switching equipment where the tendering, pricing and payment procedures followed by the major buyers, namely the Department of Telecommunications and MTNL, the service operator for Delhi and Bombay, have made it all but impossible for small or medium sized firms to compete in this segment ("Equipment manufacturers," 1996). This is because the long turn-around time involved in the order placing and payment making operations of of these government controlled organizations requires suppliers to be able to hold high inventories as well as have considerable working capital--and since small to medium firms rarely possess these attributes, this area has become the oligopolistic preserve of a few large firms. Similarly, in the mobile communication segment, the operating conditions engendered by the cellular and paging operators, particularly their insistence that equipment conform to certain highly sophisticated technical standards has meant that the market is dominated by only a handful of large firms who have the capability to produce such equipment (" Market Reports", 1996).

The Political Dynamic:

While economic variables thus play a critical role in limiting market entry by multiple sellers and in doing so affect the emergence of competition, they are not the only variables to affect the process. Indeed, in the Indian context, the development of pure competition within the telecom sector has been simultaneously inhibited by a political dynamic. This dynamic has been the Indian government's deeply contradictory stance towards liberalization which has frequently led it to take decisions that militate against the development of competitive forces. This contradictory stance has largely been produced by the country's system of competitive elections which constrains political incumbents to accomodate the view points of diverse groups including those opposing their policies, for electoral reasons. In this case, the specific groups sought to be accomodated by the government include the rank and file of the ruling Congress party, the left-wing opposition parties and most importantly the bureaucrats and unionized labor of the DoT.

Underlying the accomodation of these groups, who oppose telecom liberalization for reasons ranging from ideology in the case of the left parties, to pragmatism in the case of the Congress rank and file who fear an electoral backlash from highly organized public sector workforce and fear of retrenchment in the case of DoT employees, is the fact that they are critical to the government's political stability and therefore cannot be disregarded in the policy process. For instance, the Congress rank and file constitutes the basis of the party's grass roots organization where the majority of the Indian electorate is concentrated and is central to all electioneering efforts. Similarly the left wing parties comprise a potential legislative ally against the rising BJP a Hindu nationalist party, while public sector workers represent a vote bank of considerable dimensions. And it is in balancing these groups which thus constitute a powerful source of pressure, that the government's position towards liberalization has become conflicted, leading it to take actions and decisions that restrict the emergence of a purely competitive regime within the telecom sector.

Among such decisions for example, is the one taken by the government to delay the opening of India's national and international long distance services to private operators at least until the year 2006. Taken under pressure from the DoT bureaucracy which fears that the opening of this lucrative and high growth segment will result in the loss of high end corporate users to more efficient and technologically sophisticated private networks, this decision entails a continuation of monopolistic state control at least for the time being within a large and important segment of the telecom sector and thus clearly limits the development of competitive forces within it (Nadkarni, 1995).

Another problematic governmental action from the point of view of encouraging competition, has been the criteria that it has utilized for the granting of basic and cellular service licenses--namely the size of the licence levy. Thus, while initial policy documents revealed few stipulations regarding the granting of entry to private operators, in a subsequent decision the government has identified licence fees as the principal yardstick by which bids by such operators are to be evaluated. In addition, it also pegged reserve price, (or the least acceptable levy for a given circle), on which bidding is based at extremely high levels (D.K. Sanghal, personal communication, 1996). Consequently thus, it is only firms that are willing to pay the highest levies that are likely to obtain the right to provide services, with the licence in fact being awarded to the highest bidder and to any other bidders who are willing to match the highest bid (DoT Annual Report, 1995).

Therefore, in order to bid successfully, firms not only have to possess considerable financial resources, but more importantly, have to be prepared to accept extremely heavy upfront costs due to licence fees alone. This imposition of licence levies which amount to as much as $21 billion in the case of basic services as a whole and $150 million per city in the case of cellular services, have had serious implications for the emergence of competition within these crucial segments of the telecom sector (Nicoll, 1996). In part, this is due to the fact that under the present conditions the only firms that can enter the market are those that either have access to huge internal funds or at any rate have the ability to raise them in the capital market. And as a result, the market is effectively restricted to the largest players.

Indeed, this is clearly illustrated in the case of both basic and cellular services where successful bidders are large multinational conglomerates operating in collaboration with local companies. For example, in the case of basic services, the successful bids are those by HFCL, which is a combine of India's Himachal Futuristic Communications, withIsrael's Bezeq Communications and Thailand's giant Shinwatra Company, India's Tata Company and Bell-Canada, Essar and Bell-Atlantic, Reliance and the US based Nynex, as well as the local RPG group withNTT of Japan. Similarly, in the case of cellular services, the winning bids include those of local companies with international corporations, such as BPL with US-West, Reliance with Nynex and Birla with AT&T ("Market Reports," 1996).

Moreover, in the long term the imposition of high licence levies may continue to further hinder the development of competition because after making these huge outlays, it is not clear whether multiple sellers will in fact be able to survive within the uncertain Indian market. For instance, in the case of basic services it is entirely possible that as a result of the huge costs involved many private operators will find themselves unable to price their services attractively and thus establish broad based competition to the DoT. And similarly, in the context of cellular services it is also possible that many firms, particularly those that have already overextended themselves in matching the levy bids of larger players may find it difficult to operate. Hence, rather than fostering the opening of the service sector to the greatest number of players, by its decision regarding licence fees, the government would instead seem to have limited the growth of competition not only at present but even with regard to the future.

Yet another decision that negatively impacts the growth of competitive forces is the recent imposition of limits or "caps" as they are termed, on the number of geographic circles within which operators can undertake the provision of services. Introduced rather unexpectedly, this decision which stipulates that licences will be granted to firms for a maximum of four circles in the case of cellular services, and three circles in the case of basic services, has been justified on the grounds that it provides a way to prevent the development of monopolistic conditions within the telecom sector. (Clarifications to Tender Evaluation Committee Report, 1995). However, in reality, capping does not seem to be conducive to the emergence of competition. This is because by preventing operators from entering any more than three areas, this measure in effect restricts the emergence of multiple operators who are crucial to the development of competitive pressures within the telecom services market. Indeed, this is evident in the case of basic services in India, where capping restrictions have contributed to a reduction in the number of players, with the result that there are few operators even in the most profitable A category circles.

However, the most recent governmental action to undermine competition is the Interconnect Agreement released by the DoT. This document which outlines the terms under which private operators are to function, firstly requires all operators, whether cellular or basic, to interface with the DoT network every time they go out of the circle for which they are licensed. In other words, every time a call is placed outside a given "circle," the operator has no option but to route it through the expensive DoT network, even if it has a licence in a contiguous " circle". Secondly, the agreement prevents private operators from offering any multi-media services and finally it obligates operators to share their roll-out and network expansion plans with DoT atleast 18 months in advance (Interconnect Agreement, 1996). These varied provisions serve to inhibit the development of a competitve regime in one way or another. For instance, the clauses barring the provision of multi-media services make survival difficult for firms counting on revenues from such services to make their basic or cellular service projects economically viable. Similarly, other measures such as those entailing the use of the DoT network and the sharing of information with this government department (which is also a competitor), impose both real and opportunity costs that make market entry unfeasible for all but the most financially well endowed firms, thereby reducing the number of operators within the market.

V

Liberalization and Competition: Re-examining Linkages

From this exposition, it is thus evident that motivated by a deeply contradictory attitude towards telecom liberalization, the Indian government has taken several decisions that counter the development of competition. And the operation of this political dynamic, coupled with that of an economic variable which has a similar impact, has led to the emergence of a telecom regime that is not purely competitive, despite the introduction a policy of liberalization. In other words, this study finds contrary to assertions made by theorists (Duch, 1991; Nicolaides, 1989) within the Indian telecommunications sector atleast, liberalization seems to have failed to engender the creation of full scale or pure competition. In other words, it thus reveals the existence of a considerable disjuncture between policy intent and policy outcomes. And in doing so it firstly brings into question the specific assumptions that are made between the introduction of liberalizing policy measures and the emergence of competition and raises the issue of whether additional pro-competitive regulation is required in order to create a truly competitive environment (Vickers & Yarrow, 1988). Further, and perhaps more importantly, it also brings into question more general assumptions that are made regarding the existence of causal linkages between the adoption of specific policy prescriptions and the actual fulfillment of particular policy objectives and instead underscores the need to re-examine the relationship between them--so that the connections between the two are not viewed as necessary and automatic but contextual and mediated.

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Running Head: CITATION EFFECTS

Effects of Citation in Exemplifying Testimony on Issue Perception

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Abstract

Two sides of an issue were presented and exemplified with testimonials in a magazine-style news report. Testimony featured the interviewees' positions in citation or paraphrase. All combinations of citation-paraphrase were created and analyzed in factorial designs; i.e. position A (cited, paraphrased) was crossvaried with position B (cited, paraphrased). Issue perception was found to be greatly influenced by citation. Respondents adopted the cited position more than the paraphrased position. This effect was most pronounced when the opposing position was paraphrased. No presentation bias was detected, however.

Effects of Citation in Exemplifying Testimony on Issue Perception

The American public is becoming more critical of the actions of the press, according to studies done by the Pew Research Center in early 1997 (Pew Research Center for the People & The Press, 1997). One of the most alarming findings is that people do not believe press reports to be accurate. A majority (56 percent) now say news stories and reports are often inaccurate, up more than 20 percentage points since 1985.

And to make a difficult situation even more problematic, recent research shows that journalistic accuracy is not as simple as just getting the facts straight. In order to provide a truly accurate account of a news issue, a reporter must be concerned with a number of journalistic variables that impact a reader or viewer's perception of the issues involved. These variables concern mainly the area of exemplification, i.e., the practice of illustrating a larger-scope news issue through the use of individual examples that are to some degree representative of the larger issue. For instance, a news story about medical advances in fertility treatment would typically open with a case description about a woman whose life has been changed, for better or for worse, by the availability of such new medical treatments. Exemplars are rarely collected or presented in a systematic manner, however. They are judged in terms of typicality rather than by quantified precision. Exemplars are often chosen for their entertaining or sensational qualities rather than their accurate representation of the topic of the news report (Bogart, 1980; Haskins, 1981, Rothbart, Fulero, Jensen, Howard, & Birrell, 1978).

To journalists' credit, news stories usually include more than just vivid exemplars; they often provide accompanying base-rate information. This type of information provides data, varying substantially in their precision, that detail the number or proportion of people or things involved in a given social phenomenon (Meyer, 1991).

But a number of recent studies have indicated that exemplification is the more powerful force in journalism. Individuals pay more attention to and are influenced more by vivid examples than by the accompanying base-rate data (Bar-Hillel & Fischoff, 1981; Manis, Dovalina, Avis, & Cardoze, 1980; Newhagen & Reeves, 1992; Paivio, 1971). The basis for this perceptual bias can be found in social cognition research that defines the availability heuristic (Kahneman, Slovic, & Tversky, 1982; Sherman & Corty, 1984; Tversky & Kahneman, 1973). Simply put, this heuristic stipulates that judgments of social phenomena are greatly influenced by the ease with which exemplars of the phenomenon come to mind. For instance, an atypical, extraordinary, drama-laden example—precisely the type of exemplar often sought by a reporter attempting to make a news story more interesting—would exert a disproportional, distorting influence on the perception of the social phenomenon (Sanbonmatsu & Fazio, 1991). The representativeness heuristic makes similar predictions (Kahneman et al., 1982). Basically, in the absence of specific base-rate data, exemplars featuring particular characteristics are treated as representative. Thus, given limited knowledge of the actual scope of an issue, news consumers tend to base their judgments on what is presented to them in reported exemplars.

The applications of these cognitive mechanisms to the effect of news on the perception of social reality have been demonstrated (Aust & Zillmann, 1997; Brosius, 1995; Gan, Hill, Pschernig, & Zillmann, 1996; Gibson & Zillmann, 1994; Perry & Gonzenbach, 1996; Zillmann, Gibson, Sundar, & Perkins, 1996). Even when precise base-rate data are present, it has been shown that the selective aggregation of exemplars does create corresponding shifts in the perception of the exemplified social phenomenon. The greater the number and proportion of specific exemplars, the greater their incidence is presumed to be (Brosius & Bathelt, 1994; Gibson & Zillmann, 1994;

Zillmann, Perkins, & Sundar, 1992). For example, Brosius and Bathelt (1994) conducted studies using both print and radio news stories, finding that perception of public opinion was directly related to the percentage of exemplars representing each side of an issue. This held true even when opposing base-rate information were presented in the story. Likewise, Gibson and Zillmann (1994) found that news consumers misjudged the severity and scope of a crime issue, carjacking, after reading stories that featured distorted examples of victimization by carjacking. This occurred, again, in spite of the presence of precise base-rate information in the news reports detailing the actual scope of the phenomenon.

The present investigation seeks to addresses the specific effects of one particularly influential presentation type of journalistic exemplification: the direct quotation. Journalism students have long been told that one of the key elements of any good news story is the direct quote. Textbooks insist that personal testimony contributes to a news report in a variety of ways, making it more believable and understandable, more natural sounding and interesting, and more visibly pleasing (Brooks, Kennedy, Moen, & Ranly; 1996; Mencher, 1997; Newson & Wollert, 1985). In short, "direct quotations liven up presentation" (Izard, Culbertson, & Lambert, 1990).

The use of a direct quote indicates, for the most part, that what is included between the quotation marks is an exact replication of a speaker's words. Research indicates that readers are generally aware of the intended meaning of quotation marks: 80 percent of the 283 Ohio residents surveyed in a study knew that quotation marks signaled the inclusion of the exact words of the speaker (Culbertson & Somerick, 1976).

Perhaps it is this common knowledge that reading a direct quotation in a news story is like "hearing it from the horse's mouth" that allows the quote to function as an especially powerful exemplar. Not only is the reader presented with a specific example illustrating the scope of the news issue, but the information is presented in the own voice of the person serving as an exemplar. The question, then, is whether testimony from sources who are directly quoted is given more credence by readers or viewers, because they recognize it as unmanipulated, than the same testimony that is paraphrased and potentially modified by journalists as secondary sources. Gibson and Zillmann (1993) found in a study of news reports containing one-sided direct personal testimony challenging the safety of amusement parks that respondents perceived the overall safety of such parks to be less adequate than those respondents given the same information in indirect testimony or those presented with no testimony at all. But the study did not address the influence of direct quotation in news reports about multiple-sided issues. The key question here for journalists concerned with producing fair and accurate news stories is whether such direct testimony is more persuasive in news reports where there is controversy and where there is likely to be more than one viewpoint presented. Can direct quotes advocating a particular side of an issue sway readers or listeners to favor that side? Does paraphrasing diminish the level of perceived veridicality, if only because it is recognized that the original account was reworded and its meaning possibly altered—inadvertently or deliberately? Do direct quotes in a news story make the issue addressed by the report seem more important?

This investigation is designed specifically to examine the implications of these potential differences in the reaction to various types of quotation on the respondents' perception and judgment of issues addressed in news reports. A report focusing on the plight of Midwestern family farms is presented in five versions. In all versions, the same opposing viewpoints are presented: first, a group of poor farmers are described, all of whom blame their woes on irresponsible actions of bankers and government subsidies. Then, the other side of the issue is presented by a group of well-to-do farmers who argue that they have in fact succeeded because of help from bankers and government subsidies. The various arguments are manipulated only in terms of method of quotation. Specifically, the farmers' testimony is featured either in direct citations or as a paraphrased account. It was hypothesized that the selective-citation condition in which poor farmers' opinions are presented in direct quotation whereas the rich farmers' opinions are paraphrased would be most likely to produce ratings that judge farmers to be in dire straits and that reflect the poor farmers' belief that bankers and government subsidies are to blame for the failure of farms. It was further hypothesized that the two balanced-citation conditions (with both sides either directly quoted or paraphrased), in addition to the control condition with no personal testimony, would produce less extreme estimates of the number of farmers who fail and less blame for bankers and government subsidies. As the poor farmers' position is more emphasized in the balanced-citation condition than in that of balanced paraphrasing, the effect of the former condition was expected to be somewhat stronger than that of the latter—despite the balancing. Finally, it was predicted that the selective-citation condition which directly quoted rich farmers and paraphrased poor farmers would produce the lowest estimates of the number of farmers who fail and the least blame for bankers and government subsidies. In addition, it was predicted that the versions presenting both sides of the issue in either no-testimony form, direct-quotation form or paraphrased-quotation form would, as a news report, be judged by respondents to be more balanced and fair than those versions presenting one side of the story in direct-quotation form and the other side in paraphrased-quotation form.

Method

Overview. Respondents read a print version of three news reports. The first story, about amusement park accidents, and the third story, about wetland conservation, served as disguises. The second report, concerning the plight of family farmers in the Midwest, was manipulated in terms of quotation use. In the control version, the various farmers and their predicaments were described in third-person form by the journalist with no personal testimony whatsoever. The four remaining versions were as follows: (a) testimony from the poor farmers presented in direct-quotation form with testimony from the rich farmers presented in paraphrased form; (b) testimony from the poor farmers presented in paraphrased form with testimony from the rich farmers presented in direct-quotation form; (c) testimony from both the poor and rich farmers in direct-quotation form; and (d) testimony from both the poor and rich farmers in paraphrased form. Respondents answered questions about their opinions of the issues addressed in each of the news reports and then rated aspects of the reports. Respondents' perceptions of the plight of the family farmer and the source of blame for this plight served as the principal dependent measures.

Respondents. Seventy-four undergraduates, 38 females and 36 males, participated in the investigation. All participants were recruited from introductory mass communication courses and received class credit for participation.

Procedure. Respondents exposed to the news stories were told the reports had been copied from recent issues of a national newsweekly. They were tested in groups of approximately 20. Test booklets were randomized to the respondents in these groups. Respondents read the first news report and then answered questions about it. After all had finished the first questionnaire, they read the second report and completed and accompanying questionnaire, and they then repeated the same procedure for the final news report.

Experimental Stimuli. A story on the financial plight of family farmers in the Midwest was created, based on actual news stories printed in newsmagazines, newspapers, and the trade press earlier in the year. The no-testimony control version contained only factual information, with a summary of the arguments presented by both sides of the farming issue—those who make a good living farming because of help from bankers and government subsidies and those who have struggled financially because of bad luck and poor advice from bankers and government subsidizers. This version mentioned the names and described the apparent situation of both the rich and poor farmers, but did not include any testimony from them. All of the information found in this version was included in the paraphrased-quotes and direct-quotes versions. In the paraphrased-quotes version, the news magazine reporter told of specific statements made by the six farmers mentioned in the no-quotes version. The direct-quotes version presented the same information as that found in the paraphrased condition. For example, a statement by a poor farmer from the direct-quotes version such as:

> Third-generation farmer Tony Bell of Yankton, S.D., blames government subsidies and overly generous bank loans for the failure of his farm. "When the government offered wheat subsidies to keep me going, I thought everything would work out fine," Bell said. "But we became dependent on those subsidies just to get by and then a new administration comes in and cuts the subsidies in half. We were ruined. They should have warned us about what could happen, and they didn't."

was used in the following manner in the paraphrased-quotes version:

> Third-generation farmer Tony Bell of Yankton, S.D., blames government subsidies and overly generous bank loans for the failure of his farm. Bell said when the government offered him wheat subsidies to keep going, he thought everything would work out fine. But he said he became dependent on those subsidies just to get by and then a new administration came in and cut the subsidies in half. Bell's business was ruined. He insists the government should have warned him about what could happen to the subsidy funds, but they didn't.

Statements from the rich farmers, such as the following, were manipulated in the same manner:

> Skip Mason of Logan, Iowa, is of the opinion that banks do care about farmers, and not just when times are good. Mason grew up in Logan

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> and had never gone further west than Omaha, Neb., a few hours drive away. Now he is making plans for a vacation in Jamaica because he has succeeded in making money.
>
> "The bankers were eager to dish out the money in the good years, and they took responsibility for supporting us through the bad years," he says. "Now the good years have returned, and we can make even more money because interest payments and operating costs decrease every year."

Measurement of perception of the plight of family farmers. Respondents completed a 19-item questionnaire after reading one of the versions of the family farmers story. They were asked to record their own opinions about the percentage of family farmers who lose money, the percentage who face bankruptcy, the percentage who make money, and the percentage who become wealthy, using scales in which percentage estimates were made in increments of 10. In addition, they were asked to record their own opinions about where to place blame or credit for those farmers who fail or succeed. The questions used scales ranging from zero ("not at all ...") to 10 ("extremely..."). For example, one question asked, "In your opinion, to what extent are bank loans responsible for the poor farmers' financial woes?"

Measurement of quality of story. Questions also called for respondents to rate, again on the specified scales, the quality of the story and its balance and fairness. Specifically, respondents were asked how informative, upsetting, entertaining, well-written, balanced, and fair the story was.

Results

Issue Perception

All estimates and ratings were initially subjected to analyses of variance. The control (no exemplars cited or paraphrased) was omitted to allow a factorial arrangement of conditions: poor farmer exemplification (cited, paraphrased) by rich farmer exemplification (cited, paraphrased) by gender of respondent. The essential findings are summarized in Table 1. As can be seen, the poor farmers' lament, when cited as compared to when paraphrased, yielded consistently bleaker evaluations. A higher ratio of family farmers were believed to lose money or to go bankrupt, and a lower ratio of farms were believed to be profitable or wealth-producing. Additionally, citations of poor farmers lessened blaming the farmers themselves for their plight, and it enhanced blaming the banks' loan practices for the farmers' misfortune.

The rich farmers positive outlook, when cited as compared to when paraphrased, yielded stronger evaluations in accordance with their views, but less consistently so. Government subsidies were thought more responsible for the rich farmers' good fortunes after cited than after paraphrased interviews. The banks' liberal loan policies were similarly credited, but the citation-paraphrase difference only approached significance.

No gender main effects were observed in these analyses. With one exception, all interactions proved negligible. The exception concerned a rich farmers by gender interaction for the perception of these farmers' wealth from government subsidies: $F(1,53)=9.12$, $p=.004$. The interaction indicated a stronger effect of citation on men than on women.

For further examination, the data were reduced by principal component analysis followed by orthogonal rotation and the subsequent construction of composite measures. Using a minimum factor-patterns score of |.67| for scale inclusion in a factor (along with a maximum factor-pattern score of |.33| for alternative factors), the three emerging factors were defined by the following scales: (1) Bankruptcy and Blame, composed of ratings of % Farm Bankruptcies (.69), Banks at Fault (.85), and Government at Fault (.76); (2) Profit and Wealth, composed of estimates of % Profit Farmers (.89) and % Wealthy Farmers (.85); and (3) Good-Fortune Credit, composed of ratings of Bank Support (.91) and Government Support (.92). The interitem consistency (Cronbach's alpha) of these measures is reported in the legend to Table 2.

The three-factor analyses of variance performed on these composite measures yielded results that were entirely redundant with those reported. The level of significance improved, however, for all significant effects (the average $p=.04$ was reduced to an average $p=.02$).

More importantly, the composite measures were subjected to analyses of variance with the no-exemplification control condition included. The factorial arrangement was five citation/paraphrase conditions by gender of respondent. Moreover, the citation/paraphrase conditions were tested for a contrast that expressed the theoretical expectations. The presentation of means in Table 2 follows these expectations. Specifically, for the statistical contrast evaluation the conditions were arranged in descending or ascending order from (1) Poor-Farmers-cited/Rich-Farmers-paraphrased, to (2) Poor-Farmers-cited/Rich-Farmers-cited, to (3) Poor-Farmers-paraphrased/Rich-Farmers-paraphrased and (4) the control, to (5) Poor-Farmers-paraphrased/Rich-Farmers-cited. Except for conditions 3 and 4, the ranking was applied in the one or the other direction. The contrast, then, took the form 2, 1, 0, 0, -3 or -2, -1, 0, 0, 3.

The results of these analyses are summarized in Table 2. As can be seen, the contrasts accord with, and thus support, the theoretical expectations concerning Blame for Misfortune, Bankruptcy and Blame, and Profit and Wealth, but not for Good-Fortune Credit. Specifically, citation of the poor farmers proved influential in fostering perceptions of grave harm to them. Their being paraphrased was of markedly lesser consequence. The combination of citing rich farmers while paraphrasing the poor, in contrast, consistently fostered perceptions that were more in line with the rich farmers' laudatory assessment of the banks' and the government's actions as well as their generally optimistic outlook.

Report Evaluation

The evaluations of the news report were subjected to the same analyses as the issue perceptions.

The principal component analysis yielded two factors: Informative Reporting, combining the ratings of informative (.73), upsetting (.79), and entertaining (.71), and Balanced Reporting, combining the ratings of balanced (.93) and fair (.94). The interitem consistency of these composites is also reported in the legend to Table 2.

The three-factor and two-factor analyses of variance performed on these composites failed to yield any significant effects. For both measures, the main effects of citation from the two-factor analyses are displayed at the bottom of Table 2. These findings are consistent with the suggestion that citation, although affecting interpretation of the news, is not detected as an element of reporting capable of introducing bias.

Discussion

The findings support the proposal that direct quotation is a powerful journalistic tool that can be used to influence news consumers' perceptions of issues. Citation appears to draw attention to the assertions of persons used as exemplars; and more importantly, it seems to enhance information processing such that these assertions attain greater credence.

As expected, in the condition where poor farmers were directly quoted and rich farmers quoted only in paraphrase, respondents produced the highest estimates of the percentage of family farmers who struggle financially and those who face bankruptcy. Moreover, these same respondents produced the lowest estimates of the number of farmers who make a profit and those who become wealthy. In the balanced-citation and no-testimony conditions, respondents produced more moderate estimates of the percentage of farmers who struggle and those who do well. In the condition in which rich farmers were given a direct voice and the poor farmers' testimony was presented in paraphrased form, respondents estimated that relatively few farmers face financial hardships and that a higher percentage succeed at their farming business. The findings suggest that selective direct quotation greatly increases the persuasive power of exemplars, swaying perception of the issue in the direction of the personal testimony that is presented in citation format.

The selective use of direct quotation also influenced the attribution of blame or credit to agents thought to be responsible for the plight or good fortunes of family farmers. In versions where poor farmers were directly quoted in their criticisms of bankers and government subsidizers, respondents were more likely to blame those entities for the failure of farmers than those respondents who were given the information from the poor farmers in paraphrased form. Moreover, respondents who read direct quotes from poor farmers and paraphrased quotes from rich farmers were more likely to see the poor farmers as victims and not at fault for their predicament. The reverse effect, however, was less strong for respondents who read personal testimony from rich farmers and paraphrased testimony from poor farmers. The presentation order of testimony is a possible explanation for the stronger effects of the poor farmers' direct personal testimony. In all versions, the poor farmers' side was presented first, which could have resulted in a primacy effect of exposure. In addition, this testimony could have been viewed as more credible than that espoused by the rich farmers because it was similar to that presented in actual news stories dealing with the issue of farming economics.

Contrary to expectations, no evidence was obtained to suggest that ratings of story quality were affected by testimony, whether presented through direct or paraphrased quotes. This finding is consistent with the results of previous studies (Gibson & Zillmann, 1993; Weaver, Hopkins, Billings, & Cole, 1974) but nonsupportive of recommendations in journalism texts that lead student reporters to believe direct quotation will make news reports more interesting and enjoyable. Perhaps more alarming, the findings lend no support to the contention that readers are capable of detecting bias in reporting. Respondents who read stories where one side of the issue was presented in direct quotation whereas the other side was limited to paraphrased testimony did not spot this discrepancy. There was no appreciable difference in the ratings of story fairness or balance.

Overall, this study's findings indicate that the issue of direct versus paraphrased quotation in news reporting should be considered as a component of the overall journalistic accuracy issue. It has been shown that direct quotation can indeed create "enhanced exemplars" capable of exerting greater influence on readers' perceptions of issues, and more specifically, that imbalanced personal quotation can be effective in swaying readers' opinions to one side of an issue. Moreover, these effects apparently occur without any realization by the reader that direct testimony was presented by only one side of the issue. The journalist, in being able to choose which points of view to represent with direct quotation in a new story, is thus invested with considerable power.

The implications here are obvious. Reporters should attempt to balance the quotes used in news reports, presenting direct quotation from all sides involved an issue. To do otherwise could have strong unintended effects on media consumers' perceptions of reality and thus would reduce the overall accuracy of news reporting.

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Table 1

Main Effects of Citation in the Exemplification of Poor Versus Rich Farmers

Measure	Poor Farmers				Rich Farmers			
	Paraphrased	Cited	$F_{1,53}$	p	Paraphrased	Cited	$F_{1,53}$	p
% Deficit Farmers	**46.56**	**56.21**	**4.90**	**.031**	52.19	50.00	0.03	.874
% Farm Bankruptcies	**23.44**	**33.10**	**4.73**	**.034**	27.19	28.90	0.38	.538
% Profit Farmers	**44.06**	**34.83**	**4.35**	**.042**	39.06	40.34	0.06	.800
% Wealthy Farmers	**21.88**	**13.79**	**5.32**	**.025**	17.50	18.62	0.10	.759
Banks at Fault	**3.94**	**5.41**	**9.29**	**.004**	4.84	4.41	0.51	.477
Government at Fault	**4.06**	**5.17**	**4.05**	**.049**	5.00	4.14	2.03	.160
Banks Supportive	5.09	4.48	0.78	.382	4.38	5.28	2.66	.109
Government Supportive	4.88	4.67	0.00	.985	**4.22**	**5.38**	**5.06**	**.029**
Farmers at Fault	**7.06**	**5.97**	**4.59**	**.037**	6.53	6.55	0.00	.998
Farmers Victimized	**4.75**	**5.93**	**4.24**	**.044**	5.50	5.10	0.31	.579

Note. Percentage estimates were made in increments of 10. Ratings were made on an integer scales ranging from zero to 10.

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Table 2

Citation Effects in the Exemplification of Poor Versus Rich Farmers

Measure	Farmers								
	Poor cited Rich para.	Poor cited Rich cited	Poor para. Rich para.	None cited None para.	Poor para. Rich cited	Anova $F_{4,64}$	p	Contrast[1] $F_{1,64}$	p
Blame for Misfortune[2]	**5.32**	**5.25**	**4.47**	**3.73**	**3.59**	**3.39**	**.014**	**10.50**	**.002**
Bankruptcy and Blame[3]	**4.53**	**4.78**	**3.80**	**3.23**	**3.14**	**3.30**	**.016**	**10.03**	**.002**
Profit and Wealth[4]	**25.29**	**22.92**	**31.67**	**32.31**	**34.12**	1.75	.151	**6.12**	**.016**
Good-Fortune Credit[5]	3.88	5.54	4.77	5.08	5.18	1.79	.142	1.49	.227
Informative Reporting[6]	4.00	4.22	3.93	3.28	4.16	0.72	.578		
Balanced Reporting[7]	5.35	5.79	6.37	6.50	5.88	0.66	.620		

[1] The contrast follows predictions: PFc-RFp > PFc-RFc > PFp-RFp = Nc-Np > PFp-RFc. Cited = c; Paraphrased = p.

[2] Mean of Banks at Fault and Government at Fault ($\alpha = .82$).

[3] Mean of Banks at Fault, Government at Fault, and Farm Bankruptcies, with % of the latter divided by 10 ($\alpha = .79$).

[4] Mean of % Profit Farmers and % Wealthy Farmers ($\alpha = .76$).

[5] Mean of Banks Supportive and Government Supportive ($\alpha = .85$).

[6] Mean of informative, upsetting, and entertaining ($\alpha = .90$).

[7] Mean of balanced and fair ($\alpha = .64$).

My Brother's Keeper?: Publisher Liability and the Regulations of the Fair Housing Act on Discriminatory Housing Advertising

by

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ABSTRACT

Recent court interpretations and legal actions involving publisher liability for discriminatory housing advertising under the Fair Housing Act (FHA) are discussed with respect to the *Central Hudson* four part criteria for governmental regulation of commercial speech. Implications for newspapers and other advertising publishers are drawn and recommendations aimed at improving publishers' levels of compliance with FHA regulations are made.

The Fair Housing Act of 1968, which makes discriminatory housing advertising illegal, has been on the books for nearly thirty years. Recent lawsuits and threatened lawsuits, however, have caused publishers of housing advertising (primarily newspapers), press associations and trade magazines to give renewed attention to this issue -- both in terms of its impact on classified advertising operations and its importance as a commercial speech issue.

The majority of housing advertisements in newspapers run under the classified advertising columns, a $12.5 billion area (Lazar, 1989) of newspapering that receives little scholarly attention. Yet it is important for newspaper professionals and others involved in the selling and dissemination of housing advertising (e.g., Web page administrators) to have a clear understanding of this area of advertising regulation, a point that is confirmed by the case of one group of newspapers which filed bankruptcy as a result of an apartments for rent line ad.

What makes the Fair Housing Act unique as an instrument of commercial speech regulation is that most other codified restrictions on advertising concern only the advertisers themselves; the FHA specifically stipulates that liability for discriminatory advertising includes publishers of advertising as well (Cardwell, 1992). The portion of the FHA (as amended in 1988) that most concerns advertisers and publishers states that it is unlawful:

> to make, print, or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination (Sec. 3604(c)).

Since the FHA was amended in 1988 (an update that added handicap and familial status as discriminatory categories), a revitalized interest has been apparent among groups and individuals sensitive to housing discrimination issues. Since the amendment, lawsuits alleging discriminatory housing advertising have been filed or threatened against newspapers in Iowa, New York, Oregon, Ohio, Wisconsin, California, and Washington, D.C. (PR Newswire, 1989; Stein, 1991, 1992). Newspapers have based defenses on the grounds that they should not be responsible for determining advertisers' intentions; that requiring newspapers to monitor advertisements violates the First Amendment; that the restrictions also compromise the free speech rights of the advertisers; and that newspapers should not be legally responsible for the ratio of minorities in advertisements created and submitted to them by outside agencies (Weber, 1992).

The results of these cases, many of which were settled out of court, do not provide publishers with any clear tort interpretation as to the extent of their potential liability for discriminatory ads under the FHA. Resolving these issues of liability and their effects on newspapers and other carriers of housing advertising (which includes increasing numbers of cable television channels, World-Wide Web sites and computer bulletin boards) is something that will likely require several years and several more cases winding their way through the legal system. Until a more clear and definitive interpretation of the law is available, however, newspaper publishers, advertising directors and classified advertising managers must still continue to produce an advertising-dependent news product and, at the same time, try to minimize their legal risks without knowing for certain where all those risks lie.

This study will attempt to help focus the issue of publishers, their advertisers, and the FHA, both from the theoretical perspective of commercial speech doctrine and publisher liability, and by offering suggestions for advertising publishers to facilitate compliance with the law, thus providing a more discrimination-free advertising environment for their audiences while at the same time minimizing risks for liability on the part of the publisher.

The Fair Housing Act as a Commercial Speech Issue

Legislative and judicial restrictions on commercial speech have been on the increase in recent years, due in part to the Supreme Court's case-by-case approach that "has allowed commercial speech doctrine to evolve for 50 years without benefit of a theoretical justification that has been soundly reasoned and consistently applied" (Kaplar, 1991, p. 70). In his book, Advertising Rights: The Neglected Freedom, Richard Kaplar constructs an argument for affording commercial speech full First Amendment protection based on its utilitarian economic value in a free market system, just as other forms of speech are given such consideration for their political value in a free marketplace of ideas. In the absence of a firm constitutional grounding, Kaplar writes, "If commercial speech case law continues on this *ad hoc* course, the only prediction we can make with certainty is that First Amendment protection for commercial speech will continue to diminish; there is no reason to expect consistent improvement" (p. 71).

The current standard that exists for the regulation of commercial speech is a four part test that is the result of the 1980 case of *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*. These criteria for regulating commercial speech are: (1) the regulated speech must concern lawful activity and not be misleading; (2) the government interest behind the regulation must be substantial; (3) the regulation must directly advance the government's interest, and (4) it must not be excessive in doing so (Hovland & Taylor, 1990). In *Board of Trustees of the State University of New York v. Fox*, the fourth criterion of *Central Hudson* was weakened from requiring the least restrictive means to simply a criterion of "reasonable means" (Media Law Reporter, 1989).

In essence, the body of law that is developing leans on the side of saying it is all right for the state or the federal government to restrict some forms of advertising, but not others (Assael, 1990; Weber, 1989). All this causes decision making on the acceptance of questionable advertisements to be a highly ambiguous process for media advertising managers. According to Andrew Merdek, vice president and general manager of the Atlanta Journal and Constitution:

> The more gray areas we get, the more chilling it will be. . . . people won't bother proposing certain ads, and newspapers will begin rejecting others. If the Court has to struggle with what's permissible, you can't expect an ad executive to muddle through the same thing. They'll err on the side of not taking ads, and that's pernicious (Assael, 1990, p. 15).

Although commercial speech issues have not generally caused great concern (or stirred up a great deal of support) outside of the advertising industries, some do sense a strong link between freedom of commercial speech and freedom of speech in general:

> I've this nagging fear that when it's all over, when the freedom of the press is completely captive to "overriding" public interests, historians will be able to pinpoint where the great slide began. It began with the mid-'70s distinction between free speech and commercial free speech, they'll say, and the rest was just erosion (Morgan, 1990, p. 17).

Even from the broadest First Amendment interpretations, however, it is difficult to make a compelling argument under which discriminatory housing advertising would be viewed as constitutionally protected free speech. Discriminatory housing advertising, as defined by the FHA, comes nowhere close to matching the criteria outlined in *Central Hudson*. Nor does commercial speech even need to pass all four of the *Central Hudson* criteria in order to be exempt from potential restriction. In the first case, discriminatory housing practices are not lawful activities. Courts have indicated that alone is sufficient justification for the restriction of discriminatory housing advertising. And even Kaplar, among the most ardent supporters of free commercial speech, limits his definition of commercial speech to "truthful speech about lawful products and services" (1991, p. 1).

Secondly, a substantial government interest (ostensibly, the elimination or at least the reduction of discriminatory housing practices) is served by proscribing such advertising. And third, the restriction does appear to directly advance the government's interest.

The fourth criterion of *Central Hudson*, however, is an interesting lens through which to view the role of the publisher in illegal discriminatory advertising as defined by the FHA. By specifically including culpability for publishers of discriminatory advertising instead of just the advertisers themselves, the law effectively shifts the burden of enforcement onto the advertising media, a strategy that more than one legal scholar believes was intentionally drafted into the FHA (Alligood, 1992; Johnson, 1992; Weber, 1991). The question then becomes, since newspapers and other media that carry housing advertising must first be concerned with the extent of their own liability, does placing the burden of enforcement of the FHA on the media constitute a "reasonable means" of advancing the government's interest?

Newspaper executives tend to answer this question in the affirmative (e.g., Cardwell, 1992), but so far, judicial opinions seem to be split.

Publisher Liability in Recent Cases

In *Eimann v. Soldier of Fortune Magazine*, at issue was a classified ad which ran: "EX-MARINES--67-69 'Nam vets--ex-DI-weapons specialist--jungle warfare, pilot, M.E., high risk assignments U.S. or overseas . . ." After a husband hired the advertiser to kill his wife, the deceased woman's mother and son filed suit against the magazine. As the case developed, legal scholars were divided as to how the issues should be interpreted and what the ultimate outcome of the case should be (e.g. Shapiro & Olson, 1989; Caswell, 1989). According to the advertiser in this case, 90% of the calls he received in response to the ad were inquiries about illegal activities (Meyerson, 1990).

Although the case went through several stages and appeals, the court ultimately ruled in favor of Soldier of Fortune on the grounds that the ambiguity of the ad would not cause a "publisher of ordinary prudence" to interpret the ad as an offer to commit crimes. This ruling was similar in spirit to the 1964 *New York Times v. Sullivan* case which established the precedent that it is not a publisher's responsibility to determine the accuracy of the advertising it carries. Yet in *Eimann v. Soldier of Fortune Magazine,,* the court further stated, "Given the pervasiveness of advertising in our society and the important role it plays, we decline to impose on publishers the obligation to reject all ambiguous advertisements for products or services that might pose a threat of harm" (U. S. Law Week, 1989, p. 2143). And in a comment that gave further indication of its view on publisher liability, the court in this case also noted, "Peanut butter advertising cannot be banned just because someone might someday throw a jar at the Presidential motorcade" (Lazar, 1989).

A similar case involving the same publication, *Braun v. Soldier of Fortune Magazine*, yielded a different result. The ad in question this time, however, contained more overt phrases such as "Gun for Hire," "Discreet and very private," and "All jobs considered." The court, noting the difference between the two ads, ruled against the magazine, stating that a reasonable publisher could see that the ad, "on its face," conveyed a "clearly identifiable unreasonable risk" of harm (U.S. Law Week, 1992, p. 1035).

The two Soldier of Fortune cases, although extreme examples because of the nature of the illegal activity involved, help illustrate the ambiguity and the degree of interpretation available to the courts in trying to assess publishers' responsibilities with respect to the advertising they carry. Many of the same principles appear to be applicable to cases involving publisher liability for discriminatory housing advertising.

The most frequently cited early case involving newspaper liability and the FHA is *United States v. Hunter*, which was decided in 1972. In that case, which revolved around the publication of an ad for an apartment for rent in a "white home," the court held that a publisher could be held liable for advertisements that violated the FHA (Johnson, 1992).

In *Housing Opportunities Made Equal ("HOME") v. Cincinnati Enquirer*, the newspaper was charged with publishing advertising in violation of the FHA. The plaintiffs charged that the use of almost exclusively white models in real estate advertisements indicated an intent of racial discrimination. HOME's complaint was solely directed at the newspaper; the group made no allegations concerning any specific advertiser which had placed advertisements in the Enquirer (Media Law Reporter, 1991). The court dismissed the suit, and:

> specifically rejected the notion that a newspaper could be held liable based on the racial composition of models in advertising, noting that "section 3604(c) cannot be construed to require a newspaper to evaluate the racial proportions of its advertising pages. The chilling effect of such a burden implicates First Amendment concerns" (Weber, 1991, p. 62).

The court also stated that "requiring a publisher to [achieve a proper racial mix in the layout of its advertising], as opposed to the advertiser himself or a government agency, is at odds with the traditional relationship between the government and the press" (News Media and the Law, 1992, p. 31).

In 1993, just as in the Soldier of Fortune cases, however, a similar FHA violation case, *Ragin v. New York Times Media Co.* , was interpreted quite differently, although a final judgment was never achieved in this case. The plaintiffs charged that "during the past 20 years, the New York Times ran real estate advertisements that showed almost exclusively white models, communicating a 'whites only' message to potential customers." The Times argued for dismissal on the basis that requiring newspapers to monitor ads would violate the First Amendment and that such restrictions concern a legal activity and would therefore violate advertisers' free speech rights. (Editor & Publisher, Feb. 9, 1991).

The Times also maintained that "The Fair Housing Act does not specify a number or ratio of minorities that must appear in the ads. . . . That is not the role of the press to determine; it is the role of the government" (Editor & Publisher, Feb. 9, 1991, p. 18).

In rejecting The Times motion for dismissal, the court ruled against their arguments, and said that "because The Times routinely monitors ads to screen out obscenity or deceptive claims, among other things, 'it strains credulity' to argue that screening for racial messages imposed an 'unconstitutional burden'" (New York Times, Jan. 25, 1991, p. A-13).

Eventually, The Times entered into a consent decree with the plaintiffs, in which The Times did not admit to any wrongdoing, but paid settlements of $150,000 to each of the four plaintiffs and agreed to donate $300,000 of free advertising space to the New York Open Housing Center to promote fair housing efforts. The Times also revised its advertising acceptance policy to include regular reviews of real estate ads that use human models (Kerwin, 1993).

The final noteworthy FHA case to be examined in this paper involved Southern California Community Newspapers, a chain of 31 weeklies, that was sued alleging discrimination based on familial status. The suit was filed against the newspaper chain and the landlords of the apartment complex by the Fair Housing Council on behalf of Janet Romero and her two children. Romero and her children had formerly lived in the apartment complex but were forced to relocate after a fire damaged the building. After repairs had been completed, Romero wanted to move back in, but was told the owners had decided not to rent to families with children. A few days later, Romero noticed a classified ad for the apartment complex that stated "adults pref." The lawsuit ensued from there (Stein, 1991).

The newspaper group offered an out of court settlement of $50,000 in free advertising to the Fair Housing Council, but was turned down (Stein, 1992).

In 1992, after already incurring more than $100,000 in legal fees, the newspaper group's lawyers advised seeking bankruptcy protection. According to Ric Trent, president and publisher of the newspaper group:

> The lawyers told me this is a no win situation. There is nothing more important I could do for the newspaper industry than to take this case to the appellate court and the Supreme Court, but I can't afford it. . . . It's a flypaper law. On any given day, there are a number of newspapers against whom this kind of suit could be brought. When should the federal government have a hammer by which they can silence any newspaper it selects? (Stein, 1992).

Implications

The cases cited above, though few, demonstrate the lack of a clear interpretation that publishers and advertisers can rely on to infer what constitutes discriminatory housing advertising. Although advertising that would likely now be seen as blatantly discriminatory, such as the "white home" ad that spurred the *United States v. Hunter* case should be easily detected by any reasonably vigilant advertising proofreader or manager, numerous other cases where discrimination could occur at more subtle and ambiguous levels exist as well; especially in cases where models pictured in ads may imply discrimination, as in the 1988 case of *Spann v Carley Capital Group* (Stearns, 1994).

The recommendations in the Fair Housing Act for using models state:

> Human models in photographs, drawings, or other graphic techniques may not be used to indicate exclusiveness because of race, color, religion, sex . . . or national origin. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area. . . . Models, if used, should portray persons in

an equal social setting and indicate to the general public that the housing is open to all . . . and is not for the exclusive use of one such group (Sec. 109.30(b)).

However, in many communities, any number of minority groups might be present and deciding what constitutes a reasonable representation and equal social settings in individual advertisements and across all advertising published over a long period of time could be a daunting task to undertake on a regular basis.

Under such conditions, can publishers of advertising reasonably be expected to determine if the advertising they carry is in compliance with the law? As one legal scholar noted, "it is generally agreed that the original Fair Housing Act was designed to rely on private enforcement" to achieve its goals of nondiscrimination and integration in housing practices (Stearns, 1994, p.573). Although the idea of "private enforcement" clearly involves the use of civil litigation, it also apparently implies enforcement of a preventive nature, the burden of which falls directly on both advertisers and publishers.

The current prevailing standard for determining FHA compliance (at least with respect to race, the area of compliance that has most often been debated in lawsuits) is the "ordinary reader" standard, which was initially cited in the 1972 *United States v. Hunter* case (Rosman, 1993). This standard involves the perception of a racial preference, in which "the advertisement must indicate to the ordinary reader a racial preference in the sale or rental of housing (as opposed to, for example, a racial preference in the employment of models" (Rosman, 1993, p. 321).

In *Ragin v New York Times,* the ordinary reader standard was modified to state that discrimination would include any advertisement that would "discourage an ordinary reader *of a particular race* from answering it" (Smith, 1993, p. 446). Clearly, the implication of this modified standard for publishers is that readers from one group might interpret an advertisement as being nondiscriminatory while readers from another group could view the same ad as being discriminatory. Including models who are members of minority groups in ads would seem to be the most logical and effective means of achieving compliance. However, as one scholar pointed out:

> The quota problem arises if *any* racial, national, religious, physically handicapped, or other minority plaintiffs can sue--and get past the pleading stage--by noting the absence of models like them in advertisements or series of advertisements (Rosman, 1993, p. 324).

If the modified standard of the ordinary reader is allowed to continue, as Rosman goes on to argue:

> Logically, by conceding that advertisements that exclude blacks conceivably could send an exclusionary message to blacks, one must also concede that the absence of Chinese, Puerto Ricans, Hasidic Jews, paraplegics or families with children could also send exclusionary messages to these groups. . . . The only intelligent legal advice for them is that they simply never use models (1993, p. 324).

Recommendations for advertisers and advertising publishers

The ambiguity of the FHA with regard to what actually constitutes discriminatory housing advertising and the quasi-enforcer role that publishers of advertising find themselves in could certainly be argued to have a chilling effect on housing advertising in particular and commercial speech in general (Rosman, 1993).

From the examination of the above cases, the uncertainty that advertising media must deal with in trying to work within the regulations of the FHA is apparent. Also apparent is the wide degree of latitude that the courts seem willing to take in interpreting the scope of publisher liability under this law.

Given the potentially high stakes involved in losing an FHA discrimination case and the legal costs involved even if a newspaper would win such a case, Trent's "on any given day" comment suggests that there may be many newspapers and other advertising publishers currently operating under conditions of high liability risk. And although the Southern California Community Newspapers case was brought on by the publication of a single classified line ad, most of the cases claiming discriminatory advertising under the FHA have involved the perception of discrimination over a long period of time. Nor has any defendant to date been assessed punitive damages under this law. Consideration of these factors would seem to indicate that, although potential publisher liabilities are real under the FHA, concerted efforts by publishers of housing ads to ensure that their media are in compliance with the law would be worthwhile. Toward that end, the following recommendations are offered:

* The intent to comply with the FHA should be clearly stated in each publication's advertising acceptance policies, copies of which should be made available to advertisers.

* Staff personnel should be thoroughly trained to look for potentially discriminatory housing ads. Training should emphasize being on the lookout for catchwords that might indicate advertiser attempts to discriminate, including such unacceptable wording as *adults only, bachelor, bachelor pad, black, blind, Catholic church, Christian, drinker(s), deaf, crippled, female, male, Mormon temple, no children, Oriental, number of people, one child, one person, white, mentally ill, private, student, woman, religious landmark, sex (except in advertising for roommates), senior citizens, ethnic landmarks,* and *no play area*. Examples of questionable wording include: *executive, neighborhood, private, integrated, traditional, older persons,* and *55 and older* (Stein, 1992).

* State, regional and national advertising media associations should offer regular workshops on FHA advertising-related issues, offering training for advertising professionals and keeping members up to date on the latest issues and legal interpretations of discriminatory housing advertising.

* Newspapers and other publishers and creators of housing advertising (including real estate associations) should make efforts to achieve diversity on their

own staffs. As court interpretations of the modified standard for the ordinary reader suggest, members of majority groups may not recognize potentially discriminatory advertising as readily as members of minority groups. Diversity on the advertising staff could improve: media organizations' awareness of discriminatory housing practices in the community; their success rate in screening potentially discriminatory ads prior to publication; and their ability to recognize impressions of subtle but enduring bias due to long term advertising practices (such as the exclusive use of white models in housing ads) that might reasonably be formed by ordinary readers who are members of minority groups.

* Media representatives can work together with advertisers (e.g., by offering periodic advertising workshops for real estate representatives throughout the community) to promote awareness of fair housing issues as they relate to advertising.

* Newspapers and other advertising publishers should identify specific members of their staffs who are responsible for checking all housing advertising against FHA advertising regulations. These employees should be given the authority to refuse to publish questionable advertisements at all times.

* Newspapers and other advertising publishers should conduct periodic, formal reviews of the advertising they publish. During the review process, feedback from religious and community leaders should be solicited and encouraged.

Discussion

Fair or not, the language of the law and court interpretations of the FHA have placed advertising media operations in the position of enforcing the advertising regulations of the FHA not only as they relate to their own operations, but also as they relate to their customers. They are, in essence, their brothers' keepers.

Ambiguities surrounding the FHA and the potential for subtle forms of discrimination, however, often make it difficult to determine whether individual ads are actually in compliance with the law. Some publishers claim this situation places an unfair burden on media organizations to not only restrict publication of discriminatory advertising, but to constantly define discriminatory advertising as well. Given most media organizations' reluctance to invite legal proceedings directed toward the advertising they carry, some media executives argue that tendencies to celeritously reject ads will prevail over efforts to carefully and objectively interpret them. Further, some claim a chilling effect on commercial speech will result from these FHA-related lawsuits (and the threat of lawsuits).

Conversely, the three of the four criteria (as established in the *Central Hudson*) for governmental restriction of commercial speech appear to be easily met in the goals of the FHA. Only the fourth criterion that the government must not use excessive means in its restriction of commercial speech has been the subject of much debate. With respect to the excessive means criterion, one could reasonably ask, "What other possible means of enforcement would be more reasonable?" To date, a few options that, in effect, spread the blame and the punishment for FHA advertising violations have been proposed. These options are primarily in the form of certain types of injunctions which would target specific violators and prohibit future discriminatory advertising or order corrective advertising (Stearns, 1994).

Regardless of how discriminatory housing advertising under the FHA is interpreted in the future, newspapers and other publishers of housing advertising would be well-served to scrutinize their advertising policies and practices. By following recommendations such as those listed above, they may reduce their chances of having to defend their practices in court and they can credibly demonstrate that they are making a good faith effort to comply with the FHA. And finally, they may find that in being their brothers' keepers, they also become effective agents at reducing discriminatory housing practices.

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How Objective Were the Broadcast Networks and CNN During the Persian Gulf Crisis?

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How Objective Were the Broadcast Networks and CNN During the Persian Gulf Crisis?

Abstract

During the Persian Gulf War media critics questioned the objectivity of some television journalists. Objectivity is a canon of journalistic practice, a view that the journalist should be an impartial observer of news events. The crisis in the Persian Gulf provided an ideal opportunity to observe simultaneous news coverage by ABC, CBS, NBC and CNN in gauging how fair and impartial the networks were in their coverage of the War. For the first time all four networks competed directly in their coverage on a round-the-clock basis. A content analysis analyzing anchor, reporter and analyst language reveal, for the most part, that all four networks presented war news in a fair and objective fashion.

Introduction

Media critics have suggested that CNN's Peter Arnett failed to provide objective and balanced news reporting during his live coverage from Baghdad during the 1991 Persian Gulf War. While Arnett's coverage was scrutinized, less critical attention was paid to coverage by journalists at the major broadcast networks (Carugati,1991). Alter (1991a) believes that journalists from CNN and the broadcast networks became sideline "cheerleaders" during the War. As a result, Americans were denied objective and balanced coverage of the conflict.

Scholars over the years have studied whether American media institutions provide objective and balanced reporting to society (Emery, 1971; Meyer, 1972; Pride, Wamsley, 1972; Orwant, 1974; Patterson, 1984). During the 1980s, researchers analyzed the reporting that came out of the Panama and Grenada conflicts (Braestrup, 1985). But these conflicts failed to produce much volume for analysis because events lasted only a few days.

The 43-day Persian Gulf War was different from Panama and Grenada because it offered an opportunity to analyze media content from the major commercial broadcast networks (ABC, CBS, NBC) and CNN over a six-week period. This study will seek to assess whether U.S. journalists from these four networks presented an objective and balanced view of the Persian Gulf conflict. In addition, it also seeks to determine if use of analysts and anchor analysis lead to a breakdown in journalistic objectivity during the Persian Gulf War.

Five evenings of the Persian Gulf conflict were analyzed. The first night studied was the beginning of the air invasion (January 16, 1991); the second night was the retaliation by Iraq with Scud missiles (January 17, 1991); the third night was the start of the ground invasion (February 23, 1991) and the final two nights studied were the final days of the War (February 26 - 27, 1991). The results suggest that the networks were quite objective in their reporting of the Persian Gulf conflict, but that important differences existed between the degree of objectivity provided by the various networks.

Literature Review

Objectivity is a principle that guides the practice of responsible journalism. To the journalist, objectivity means the "news story is free of reporter opinion or feelings; it contains facts and is reported by an impartial and independent observer (Mencher,1987). Objectivity denotes fairness and balance. While objectivity as a concept is somewhat difficult to define, most scholars agree that objective news stories attempt to present all sides of issues in a fair and balanced manner (Lowry, 1974; Meyer, 1972; Pride, Wamsley, 1972; Weaver, 1972; Fowler, 1974; Hofstetter, Buss, 1978).

Although responsible journalists would contend their reporting is objective, politicians are skeptical. Vice-President Spiro Agnew lashed out against what he called a "little group of men who wield a free hand in selecting, presenting and interpreting the great issues of our Nation. . .these men are the anchormen, commentators and executive producers of the network TV newscasts" (Lowry, 1972). Agnew attacked what he said were instant value judgments and lack of objectivity by network journalists following major addresses given by President Richard Nixon.

Journalists counter such charges saying they strive for objectivity on a daily basis. But journalists, irrespective of their intellect and training, approach every story with their own beliefs and values (Altheide, 1976). The process of news gathering is, unavoidably, a highly selective one. As Gans (1980) explains, "No observer can absorb and communicate every fact about any observed situation" (Gans, 1980). During this selection process, journalists apply commonly accepted news values such as timeliness and consequence (Fowler, 1974).

At times, however, the outcome of this news selection process is motivated by more than professional journalistic values. Reporter biases may enter into the news process interfering with objectivity of the news presented. Ranney (1983) notes that these biases surface when journalists distort stories by over-or-under-emphasizing elements that coincide or differ with their beliefs or values. Furthermore, Ranney (1983) believes that "professional news values and good judgment" may actually produce reports that are not objective.

One measure of success in electronic news reporting is being the first news source to report the story. This premium on "speed" may have prompted media critics to suggest that much of the reporting from the Persian Gulf was not objective. Examples of reporters using "we" and "our troops" throughout the conflict abound (Alter, 1991a). Retired military analysts (employed by the networks) seemed gleeful while reporting the latest allied victory and/or advances against Iraqi troops. CBS News anchor Dan Rather may have allowed his lack of objectivity to show when his pro-Allied stance surfaced, becoming teary eyed while shaking hands with a military general after a live interview. On January 17 NBC anchorman Tom Brokaw ad-libbed an anchor report in response to a live report that Saddam Hussein launched Scud missiles on Israel. He closed the report saying, ". . .will this crude and ruthless and almost unthinkable tactic on the part of Saddan Hussein work to his advantage?" On February 23 Brokaw continued to use judgment sentences to attack Hussein saying, "Saddam has a narrow world view. He's a strong man who's been rumored to have killed those who disagree with his policy decisions." Finally, it is difficult to forget the images of CNN's Peter Arnett reporting from inside Baghdad under the censorship of the Iraqi government (Alter, 1991b, 1991c).

To investigate objectivity in news reporting, researchers have often used content analysis. For example, Pride and Wamsley (1972) considered the question of objectivity with respect to the coverage of the Laos incursion by the television networks during the Vietnam conflict. The researchers asked coders to simply judge whether news stories were positive, neutral or negative toward the United States, South Vietnam and North Vietnam. The results proved useful in identifying negative U.S. sentiment among network news organizations. However, the study failed to look at the subtleties of the language as it pertains to determining objectivity in news copy.

Lowry (1974) considered these subtleties during his content analysis of the network news coverage of the 1972 presidential campaign.[1] He identified four classes of sentences: (1) report sentences which state verifiable facts; (2) inference sentences which are not verifiable at the time of initial broadcast; (3) judgment sentences which typically employ personal opinions expressed by journalists and sources; and, (4) other sentences. Using these four primary categories, he further sorted the sentences into nine main categories. Report sentences were categorized as: (1) attributed, or (2) unattributed; inference sentences were categorized as (3) unlabeled or (4) labeled; and judgment sentences were categorized as (5) attributed/favorable, (7)unattributed/favorable, (8) unattributed/unfavorable and (9) all other sentences. The category system is vivid in its definitions, clearly presenting the distinction between report, inference and judgment sentences.

Almeida (1991) also used content analysis and a similar nine-point categorization system to determine objectivity in newspaper reporting.[2] It allowed newspaper statementsto be categorized according to a factual/non factual, criterion. Because his system breaks down journalistic discourse into identifiable word cues (which aid in coding both the How structure and function of the discourse), it has become useful in contributing to objectivity research.

Research Focus

The television networks had a need for instant analysis from knowledgeable sources when breaking war news occurred (Sigal, 1986). News managers apparently knew that it would be important to have in-house analysts available to elaborate upon the administration sources. These "expert" sources were largely former military and administrative officials hired to provide "in-depth" commentary on Persian Gulf military operations. Network news media at the outbreak of the Persian Gulf War had begun to utilize, to a greater extent, expert sources who appeared to have a strong impact on public opinion (Reese, 1994). Although these expert analysts were presumably hired to round out the editorial coverage of the War, they also helped solve an organizational problem (Walker, Wicks, Pyle, 1991). Because the broadcast networks dropped regular programming in favor of round-the-clock coverage during the sample period, a need existed to fill time when live feeds and news reports were being readied. Expert sources also were used in accordance to how well their specialized knowledge conformed with what can be termed television's "operational bias"[3] in favor of predictions, players and policies (Steele, 1995). This process, says Steele (1995), has the effect of "undermining the very goal of objectivity that encourages journalists to seek out experts in the first place."

As a result the networks may have been in the dubious position of relying on sources that were experienced in the art of war but not necessarily concerned with objectivity. With the speed of the "as-it-happens" style of reporting presented during the crisis, it's possible that the networks may have presented unobjective commentary by hired sources. This leads to the first research research question:

R1: Do analysts hired by the broadcast networks and CNN provide objective statements during their analysis of the Persian Gulf War?

The second research focus deals with the journalists themselves. Freedom Forum researchers recommend that "News organizations that covered the gulf war need to assess carefully the qualifications and performance of their war correspondents with an eye toward future improvements." In the Gannett Foundation publication, T*he Media At War: The Press and the Persian Gulf Conflict* (1991) researchers suggest "since many reporters were sent to cover the war hastily with very little planning, relative performance ought to be reviewed, both from the perspective of the reporters in the field and the editors at home." The sense of this recommendation embraces the notion that journalists were unprepared for the challenge of unraveling the fast-breaking and complex situations in the Persian Gulf for the viewership.

The Persian Gulf War is considered unique because it was the first full-scale war to be fought in the age of world-wide satellite communication. Reporters and anchors in the field presented news as it happened. Air-raid warnings and bombing sorties were transmitted live by the news networks across the globe. The positive side of this is that "the nation and world were able to monitor a crucial episode in history in unprecedented detail. The downside is that every unconfirmed rumor or twist in the story is exaggerated with all the attendant swings in emotions and expectations" (Kane, 1991). Does this downside observation hold merit? To discover if the live fast-breaking narrative from reporters and anchors presented news consumers with unobjective journalism, the following research question is addressed:

R2: Did network correspondents and news anchors provide objective commentary during the Persian Gulf War?

To study the issue of potential lack of objectivity by military analysts employed by the broadcast networks and journalist, a content analysis using the Lowry categorization system was conducted.

Methodology

Overview

News stories containing language suspected of being unobjective were analyzed. Data were generated by recording more than 300 hours of news coverage of the Persian Gulf War from the three major broadcast networks (CBS, NBC, ABC) and the Cable News Network (CNN). Assessment of the total tape collection revealed five dates on which major war events were occurring at a rapid pace. The first date was the beginning of the Allied air invasion of Baghdad on January 16, 1991 (9 p.m. to 11 p.m. EST). The second date was the first Scud Missile attack on Israel on January 17, 1991 (6:30 p.m. to 8:30 p.m. EST). The third date selected was at the beginning of the ground invasion on February 23, 1991 (8:30 p.m. to 10:30 p.m. EST). The fourth date was three days later on February 26, 1991 (6:30 p.m. to 7:30 p.m. EST), when the Allied troops began the final push to end the War. The fifth and final day coverage examined was February 27, 1991 (6:30 p.m. to 7:30 p.m. EST), the last day of the War. The tape sample contained eight hours from each news network producing a total of 32 hours of network coverage from ABC, CBS, NBC and CNN.

Approach

The methodology employed a combination of qualitative and quantitative research techniques. It utilized a system of sentence categorization devised to uncover incidents in which objectivity might be threatened (Lowry,1972). The first step involved asking coders to view 32 hours of coverage (eight simultaneously recorded hours from each of the four networks).

To find incidents of lack of objectivity, a system patterned on one employed by Pride and Wamsley (1972) was used. Pride and Wamsley concede that objectivity and bias are difficult concepts to grasp. Nevertheless, they recommend qualitatively evaluating the material, looking for possible threats to objectivity.

Pride and Wamsley used a three-prong coding system, identifying stories as either positive, negative or neutral towards the United States, North Vietnam or South Vietnam. Phase one of this research asked similar questions about the military players in the Persian Gulf War. If a story was positive towards the Allied cause in the Persian Gulf War that story was examined closer for bias verbiage. If journalists used words such as "we" or "our" to describe Allied forces, or showed other verbal signs of "cheerleading" for the Allied cause, coders were instructed to flag the story and identify the verbiage that posed a threat to objectivity.

During this initial examination of 32 hours of Gulf War coverage, coders identified 95 reports that contained some evidence of verbal bias by either the anchors, reporters or network news analysts. These 95 reports, which accounted for approximately three-and-one-half hours of news reporting, commentary and analysis, became the data base for this study. Because this data base is a purposive sample,[4] and is not a random sample of Gulf War broadcast and cable coverage, it is unrepresentative of the total war coverage. But it is this study's intention to gauge objectivity in stories that are consider unobjective or biased. This research is designed to determine if, in fact, these "unobjective" reports really contain violations of journalistic canons of objective reporting.

Lowry studied objectivity by analyzing each sentence spoken by the journalist. As noted earlier, the categorization system employs nine content categories. The key criterion in his system are "report sentences, inference sentences, and judgment sentences." Lowry further defined his categories by determining whether the sentences are attributed, unattributed, labeled, unlabeled, favorable or unfavorable.

Content Category Terms

Report sentences state verifiable facts. These facts are not matters of personal opinion but are out in the open and observable. Stories are objective when they can be checked against some kind of record, such as a text of speech, the minutes of a meeting, a police report, a purchase voucher, a payroll, unemployment data, or vital statistics (Mencher, 1987). A report sentence is considered as the most objective of all journalistic tools.

An inference sentence is not verifiable at the time of the initial broadcast of the report. These sentences have their foundation in what is considered common knowledge. Inferences are statements about the unknown made on the basis of the known. There is a certain amount of interpretation on the part of the reporter when he/she states an inference sentence. The reporter is oftentimes relying on personal or subjective opinions, conclusions, beliefs and feelings in an attempt to interpret what implications an event may have on both the present and the future. The inference sentence is less objective than the report sentence.

The judgment sentence is the least objective of all sentences. They are pro or con personal opinions expressed by the reporter about events, persons, and/or objects he is describing. These sentences can be identified when the journalist indicates whether he/she approves, or disapproves, likes or dislikes or makes a judgment as to whether something or someone is either good or bad.

In an attempt to present even more detailed observations coders were instructed to determine whether report sentences were attributed or unattributed. When gauging inference sentences, coders were on the lookout for whether the sentences were labeled or unlabeled. Finally, coders assessed whether judgment sentences were attributed or unattributed, and if they presented the subject in a favorable or unfavorable fashion.

According to Lowry, attribution "can take the form of direct quote or indirect quotes, and can be a specific source or general source," for example, "informed sources indicate. . . " Says Lowry, the question coders must ask themselves is whether the reporter, anchor, or expert is making a statement on his/her own, or is the journalist quoting or paraphrasing someone else? A report sentence that is attributed is the most objective sentence.

Words and phrases such as: "it appears," "apparently," "it seems," "sounds like," "looks as though," "it might" tell the coder whether an inference sentence is labeled or unlabeled. If a journalist qualifies an inference sentence with "It looks as though. . . ", he/she has told the news audience that, in so many words, this report has not been confirmed. So, when the reporter says, "It looks as though. . that. . ." he/she is saying in other words, "It looks as though (to me) that." In this research, a labeled inference sentence is considered more objective than an unlabeled inference sentence because the reporter (whether intentional or not) is being more up-front about the unverified sentence.

The all other sentence category is for questions, anchor transitions and other non-content sentences. The principle news anchors were: Peter Jennings for ABC; Dan Rather for CBS and Tom Brokaw for NBC. CNN rotated personnel and did not have one fixed anchorman or woman.

The data were tabulated using the Statistical Package for the Social Sciences (SPSS 1991). Cross tabulations and other statistics were calculated and used to assess differences. But due to the mix of qualitative and quantitative methods employed, it seemed inappropriate to apply statistical tests that are normally based on random samples of content. For this reason, the results will be presented in terms of raw scores and percentages.

Results

A total of 95 stories containing 2,189 sentences were analyzed. The total number of sentences studied in the sample stories by anchors was 648. Analysts were responsible for 548 sentences. Reporters were responsible for the largest sum of sentences, 993.

The results will be presented in terms of the actual number of sentence classified as report, inference and judgment statements. In addition, percentages based on distribution of sentence type will be presented. Therefore, the data will reveal the actual number of each sentence type as well as the proportion of particular sentence types presented by the broadcast networks and CNN.

Analyst Objectivity

The first research question dealt with-the issue of objectivity by network-employed analysts. With the "as-it-happens" style of reporting presented during the crisis, it seems possible that unobjective commentary by hired sources may have been presented by the networks. To study this issue, analysis sentences spoken by former military analysts were studied using the coding scheme developed by Lowry (1972).

The results indicate that comments made by analysts were reasonably objective. For example, 22 sentences were attributed report sentences and 279 were unattributed report sentences. Together, these two categories accounted for 51 percent of the all sentences spoken by analysts. Ninety-seven sentences were labeled inference sentences and an additional 142 were unlabeled inference sentences. Together, these two categories account for 44 percent of the total sentences. The networks analysts varied between two and three percent for judgment sentences. And analysts accounted for about two or three percent of the other sentences.

Interestingly, differences were found in how often analysts were used and how objective they appeared to be. Walker, Wicks and Pyle (1991) reported that ABC and CBS turned to military analysts the most followed by NBC and finally CNN. The data in this analysis shows a similar pattern. Of the total of 548 sentences spoken by military analysts on the four networks, CBS had presented 249 (45 percent), followed by ABC with 175 (32 percent), NBC with 107 (20 percent) and by CNN with only 17 (three percent). Because CNN had so few sentences spoken by analysts, it will not be included in the following analysis.

With respect to attributed report sentences by military analysts, each network provided either seven or eight. In collapsing attributed and unattributed report sentences, ABC provided 106 attributed and unattributed report sentences accounting for 61 percent of its total sentences. CBS analysts offered 139 report sentences, accounting for 56 percent of the total sentences provided by its analysts. NBC analysts offered 26 report sentences accounting for 24 percent of its total sentences.

Each network was fairly similar in providing between 26 and 36 labeled inference sentences. To provide a picture of total inference sentences, the two categories were once again collapsed into one category to be labeled inference sentences. NBC presented 75 inference sentences (70 percent), CBS presented 97 inference sentences (39 percent), and ABC presented 61 inference sentences (35 percent).

Four categories of judgment sentences produced only 14 judgment sentences for the three networks. These sentences accounted for two to three percent of the total sentences spoken by analysts for the entire set of sentences. Other sentences totaled 13 and also accounted for about two to three percent of the total sentences for each network (see Table 1).

Table 1: Analyst Sentences

	Total	Report	Inference	Judgment	Other
ABC	175 (32%)	106(61%)	61(35%)	3 (2%)	5 (2%)
CBS	249 (45%)	139 (56%)	97(39%)	8 (3%)	5 (3%)
NBC	107 (20%)	26 (24%)	75 (70%)	3 (3%)	3 (3%)
CNN	17 (3%)	8 (47%)	5 (29%)	3 (18%)	1 (6%)

Total number and type of each sentence presented by the networks as well as the overall percentages.

Taken together, the data indicate that analysts for ABC and CBS used more report sentences than NBC analysts. Conversely, NBC analysts relied heavily on inference sentences--about seven in ten. But it should be noted that judgment sentences--those presumed to be least objective--were few and far between.

Journalist Objectivity

News Anchors:

The second research focus is intended to determine whether the journalists were objective in their coverage of the War. To study this issue, sentences by reporters and news anchors were analyzed using the Lowry classification system. Of the 2,189 total sentences analyzed, anchors were responsible for 648 (30 percent). NBC anchorman Tom Brokaw was responsible for the greatest number of sentences with 220 (34 percent), followed by Dan Rather of CBS with 179 (28 percent), Peter Jennings of ABC with 174 (27 percent) and CNN with 71 (11percent).

Broadcast journalists tend to use less attribution than their print counterparts for stylistic reasons (Mayeaux, 1991). Therefore, attributed and unattributed sentences will be collapsed to produce one category to be called report sentences for this analysis. Of Rather's 179 total sentences, 100 were report sentences (56 percent), followed by ABC's Jennings with 76 (43 percent), CNN with 32 (43 percent), and NBC's Brokaw with 66 (30 percent). Therefore, CBS offered the greatest proportion of report sentences, followed by ABC and CNN. Fewer than one-third of Tom Brokaw's sentences were classified as report sentences.

NBC's Brokaw provided 18 labeled and 30 unlabeled inference sentences for a total of 48 inference sentences (22 percent). CBS's Rather provided 15 labeled and 16 unlabeled sentences for a total of 31 (17 percent). Jennings of ABC presented 12 labeled and 18 unlabeled inference sentences for a total of 30 (17 percent). Finally, CNN provided five labeled and eight unlabeled inference sentences for a total of 13 sentences (17 percent). Judgment sentences provided by anchors totaled 19. Of this number, however, NBC's Brokaw was responsible for a total of 11 or five percent. CNN anchors accounted for four (five percent) followed by ABC (one percent) and CBS (one percent) with two each.

All other sentences by the anchors accounted for a total of 233 sentences or 40 percent. This is because transitions and bridges between stories were not counted as stories dealing with content. ABC's Jennings provided 66 other sentences (38 percent), CBS's Rather offered 46 other sentences (26 percent), NBC's Brokaw used 95 other sentences (43 percent) and CNN anchors were responsible for 26 (35 percent). Table 2 summarizes the results of the anchor sentences.

Table 2: Anchor Sentences

	Total	Report	Inference	Judgment	Other
ABC	174 (27%)	76 (43%)	30 (17%)	2 (1%)	66 (38%)
CBS	179 (28%)	100 (56%)	31 (17%)	2 (1%)	46 (26%)
NBC	220 (34%)	66 (30%)	48 (22%)	11(5 %)	95 (43%)
CNN	75 (12%)	32(43%)	13(17%)	4 (5%)	26 (35%)

Total number and type of each sentence presented by the networks as well as the overall percentages.

Reporters:

Reporters were responsible for 993 sentences that appeared in stories that may have lacked objectivity. NBC reporters presented the greatest number of sentences with 373 (38 percent), followed by CNN with 345 (35 percent), ABC with 165 (17 percent) and CBS with 110 (11 percent). Again, the data were collapsed to present the four primary categories. CNN reporters provided the most report sentences with 260 (75 percent), followed by ABC with 103 (62 percent), NBC with 219 (59 percent), and CBS with 54 (49 percent).

Reporters for the three broadcast networks were similar in the number of inference sentences they utilized. ABC reporters were responsible for the greatest percentage of inference sentences with 57 (35 percent), followed by NBC with 34 (33 percent) and CBS with 34 (31 percent. CNN reporters used 71 inference sentences (21 percent) which was proportionally lower than reporters at the broadcast networks. NBC reporters were responsible for three unfavorable unattributed sentence; CBS reporters were responsible for two; ABC reporters were responsible for one. None were found to have been made by CNN reporters. CBS reporters had the greatest proportion of other sentences with 19 (18 percent), followed by NBC with 25 (seven percent), CNN with 11 (three percent) and ABC with three (two percent) (see Table 3).

Table 3: Reporter Sentences

	Total	Report	Inference	Judgment	Other
ABC	165 (17%)	103 (62%)	57 (35%)	2 (1%)	2 (2%)
CBS	110 (11%)	54 (49%)	34 (31%)	3 (3%)	18 (18%)
NBC	373 (38%)	219 (59%)	122 (33%)	7(2%)	7 (7%)
CNN	345 (35%)	260 (75%)	71 (21%)	3 (1%)	3 (3%)

Total number and type of each sentence presented by the networks as well as the overall percentages.

Together, the results indicate that 64 percent of the sentences spoken by the reporters were report sentences. In addition, 29 percent were inference sentences. Less than two percent of the sentences could be classified as judgment sentences and only three percent qualified as other sentences.

Discussion

Media critics suggest that broadcast and cable networks viewers may have received news that was unobjective throughout the Persian Gulf War. On the surface, incidents like reporters expressing personal fears and feelings while scrambling for gas masks during live broadcast, or drawn out diatribes from network anchors, analysts and reporters attempting to fill air time could prompt one to conclude coverage of the Persian Gulf War was not objective. But this study, using qualitative methods in tandem with a categorization scheme developed by Lowry (1972), tells a somewhat different story: that even in times of stress, television journalists can still maintain objectivity.

Data suggest that anchors, reporters and analysts who covered the War attempted to present their on-air communications in an objective and fair fashion. While episodes of "cheerleading" did occur during the conflict, it appears that these incidents were isolated happenings. During marathon network coverage by the broadcast networks and CNN the bulk of all sentences used to communicate war news were presented in report or inference form. This research exhibits that journalists who covered the War utilized information that they considered factual. Judgment sentences and personal opinions rarely occurred in the sample data.

This is encouraging information for a society that relies so heavily on television news. With the majority of American people acquiring their news from television (Roper, 1986) any other conclusion would prove disturbing. Network news has been under fire for its perceived lack of objectivity for more than 20 years. Attacks against the news media were most frequent and harsh during the Vietnam War. Media critics claimed networks produced biased coverage of the Vietnam Conflict, slanted to the political left (Weaver, 1972). Two decades later this analysis of the Persian Gulf War indicates that broadcast journalists and paid analysts handled their assigned role of objective observer well, demonstrating that the American viewer received reasonably objective reporting.

While this research indicates journalists covered the Gulf conflict in a reasonably fair and objective fashion, this does not mean that all the information presented was objective or accurate. First, the sample studied was drawn from periods when networks were reporting events live. This was done intentionally because it seemed that spontaneous commentary by analysts, anchors and editors would be likely to produce unobjective reporting than scripted news stories that might be reviewed by editors and producers. In addition, this study looked only at analysts and journalists--it did not focus on sources in soundbites and in press conferences. Administrative and military viewpoints dominated a good deal of the coverage presented. Since journalists had minimal access to the battle front due to military censorship, they were forced to turn to the power elite (i.e., military and administrative officials) for information.

It is vital that both journalistic practitioners and news consumers be aware of how partiality enters into the news mix. The public must be mindful that journalistic objectivity and fairness can be used and manipulated by outside sources. Extensive and detailed research of objectivity during wartime has been rare since the Vietnam War. Now with an abundant video data base on the Persian Gulf War, the time may be right to return to the important questions of objectivity. But examining news sources through content analysis of the narrative alone does not permit one to test the truth of those sources. Other research methods should be incorporated, including observational studies and interviews with news workers, news managers and news sources. A method to judge meaning of visuals should also be developed and applied. By examining such news sources and visual studies, we can begin to understand the challenge journalists face when striving for objectivity and fairness in their day-to-day news coverage.

Endnotes

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[1] Lowry utilized content analysis, Hackett (1984) argues that objectivity is better studied through direct observation than content analysis. Hackett is accompanied in his view. Pride and Wamsley (1972) note bias (which is closely related to journalistic objectivity) cannot be determined solely through content analysis. But Lowry (1974) counters saying it is possible to determine bias through content analysis if two important conditions are met. The first is: "one must accept a relative definition of bias." The second condition is: "there should be a realization that it is impossible to measure bias in any absolute sense." Bias (or in the case of this study, objectivity) then must, according to Lowry, be defined "subjectively." He says "once it is so defined, it may be objectively measured within the context of the definition."

[2] Almeida (1991) devised a categorization system which allows all newspaper statements to be categorized according to factual and nonfactual criterion. Five types of factual statements used in newspaper discourse are distinguished: (1) Concrete Factuals, (2) Descriptive Factuals, (3) Communication Factuals, (4) Cognitive Factuals, and (5) Rules Factuals. Four types of non-factual statements are also distinguished: (1) Hypothetical Statements, (2) Necessity Statements, (3) Interrogatives, and (4) Imperative Statements.

[3] Operational bias occurs when the emphasis on television news is placed on players, policies, and predictions. When experts appear on news programs to interpret unfolding events, the are asked to describe the players, explain the policies, and make predictions.

[4] Purposive sampling is characterized by the use of judgment and a deliberate effort to obtain representative samples by including typical groups in the sample.

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The Impact of Media Ownership--How Time and Warner's Merger Influences *Time*'s Content

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The Impact of Media Ownership--How Time and Warner's Merger Influences *Time*'s Content

Abstract

The increasing concentration of media ownership has been a popular research topic for mass communication scholars. Their usual focus is the diversity of voices in press coverage. However, because media conglomerates likely own more than only news media, the impact of such ownership invites investigation beyond news content. Our findings suggest that conglomerate ownership could force a leading news magazine to show favoritism toward the products of its parent corporation.

The Impact of Media Ownership--How Time and Warner's Merger Influences *Time*'s Content

The impact of the concentration of media ownership on media content has been the topic of frequent academic inquiries. Most of such studies focus on the reporting of news. [1] The underlying question is whether journalistic professionalism can fend off corporate interest. In other words, it is a question about journalists' freedom and autonomy versus corporate control.

As will be discussed in the literature review, most of these studies examine the difference in news content between independent and chain-owned newspapers. Looking at the rate of mergers in the U.S., one might wonder how much longer it will take before all remaining independent newspapers disappear. Thus, it is time to treat the difference in the size and diversity of conglomerates as an independent variable.

The study of *Time* magazine is ideal for such examination. *Time* is the leader among weekly news magazines, with the largest circulation and tremendous influence. Because of such clout, its editors should enjoy greatest autonomy and exercise the highest standard of journalistic professionalism. On the other hand, *Time* is owned by one of the largest media entertainment corporations in the world, Time Warner Inc. [2] This fact suggests that *Time* may have a great many corporate interests to consider in its reporting.

The purpose of this study is to examine whether *Time* shows a favorable bias in covering Time Warner's products and subsidiaries. There are three types of comparison. The first one is *Time*'s content before and after its merger [3] with Warner in 1989. [4] The second comparison is between *Time* and *Newsweek* by using the latter as a contrast baseline. Finally, there are qualitative analyses of *Time* and *Newsweek* coverage of two Time Warner "products": Madonna and Hootie and the Blowfish (a popular music group). By making these comparisons, we hope to update our understanding of whether ownership has a significant impact on media content.

Literature Review

Media Ownership

The concentration of media ownership in the U.S. has been growing and is expected to continue. More and more media organizations have become subsidiaries of conglomerates. [5] It is natural for media researchers to probe the implications of such a phenomenon in search of potential conflicts of interest, such as whether the news media under these circumstances would be less likely to serve the public's interests (e.g., criticizing the parent corporation and fellow subsidiaries for wrong-doings). [6] The reason behind such concern is that the news media may be pressured by their parent companies to put corporate interests above the public's. In other words, journalistic autonomy could be sacrificed. Even if conflict of interest was not a problem, if media ownership concentration meant a decrease in the diversity of ideas, democracy would be undermined because media have a great impact on society. [7]

A relevant debate concerns allocative versus operational control by corporation owners: whether they only allocate resources within the conglomerates and let professionals run the media, or whether they themselves actually are involved in day-to-day operations. [8] The underlying question is whether ownership changes (especially from independent to corporate) make a difference in media content, as well as journalists' professional satisfaction and autonomy. The types of media examined so far include newspapers, Public Television and the music industry; and the results have been contradictory.[9]

If we look at corporate management, in terms of whether high ranking executives directly control the content of their media products, the evidence is also mixed. However, in general news has been considered a "product" (instead of a sacred object as in the past) in corporate-owned news media.[10]

We can also look at the above issue from the perspective of journalistic autonomy. News production is influenced by both internal and external forces. Media professionals do have certain levels of autonomy, but the autonomy still has limits or constraints. External constraints include commercial or economical (competing for audience and maximization of profit) and political (governmental reviews and regulations). Internal constraints include newsroom policies (and norms and values within an organization), professionalism (such as the notion of objectivity), and routinization of news gathering.[11]

Thus, one may theorize that in a giant entertainment-oriented corporation where news is only one of its many products, the status and integrity of the news division would suffer because the parent company may have other priorities. Also, in such a company where the force of commercial interests may be stronger (than in a smaller corporation or an independent media organization), journalistic autonomy may take a back seat. One possible result of such a phenomenon might be that the news division would be pressured to perform favoritism toward the corporation's entertainment products. In other words, news could be used to serve the parent corporation's interests, which is sometimes in the name of "synergy."[12]

The merger of Time and Warner offers an ideal opportunity to test this proposition. *Time* magazine is a leader in the news industry. Its editors and reporters are likely to uphold to a high standard of professionalism in order to maintain the magazine's integrity. However, after the merger, *Time* became a part of one of the largest entertainment companies on earth. According to some anecdotal evidence, the magazine is not highly regarded in the corporation, and corporate officials have tried to interfere with the magazine's editorial operations.[13] Therefore, if corporate interests are served after the merger, it is likely to show up in *Time*'s coverage of Time Warner's entertainment products.

Based on the arguments presented above, this present study will examine *Time*'s coverage of Time Warner entertainment products. The problem statement is: Has Time Warner's merger influenced *Time*'s coverage of Time Warner's entertainment products? An overall hypothesis is that after Time's merger with Warner, *Time* would display more favorable coverage of Time Warner's films, music, books and other entertainment products than before the merger, as well as than that displayed by *Newsweek*.

Hypotheses

This study's hypotheses and qualitative research question are:

H_{1A}: After the merger, Time will have more coverage of Time Warner's entertainment products than before the merger.

H_{1B}: After the merger, *Time* will have more favorable coverage of Time Warner's entertainment products than before the merger.

H_{2A}: After the merger, *Time* will have more coverage of Time Warner's products than Newsweek.

H_{2B}: After the merger,.*Time* will have more favorable coverage of Time Warner's products than Newsweek.

Q1: In 1996, do *Time* and *Newsweek* cover Madonna and Hootie and the Blowfish differently? If yes, how?

Methods

The Time Warner merger took place in 1989; and corporate operational control (by the new corporation created by the merger), if any, would not become prominent immediately. Therefore, our analysis of *Time*'s content began a few years after the merger. The sample of this study includes 1986 (three years before the merger), and 1992 (three years after the merger) for a before-after comparison.

To provide a baseline, *Newsweek*, whose circulation is second only to *Time*'s, was chosen. *Newsweek* is a subsidiary of the Washington Post Company, a much smaller corporation (in terms of diversity and number of subsidiaries) who owns newspapers, a news magazine, a few television stations and cable systems. [14] Therefore, *Newsweek* does not have nearly so many, if any, potential interests in films and music (like Time Warner has) to serve.

A sample of 12 issues (of both *Time* and *Newsweek*) was selected from each year. To ensure the representativeness of sample, an issue was randomly selected from each month. Each of the four coders was responsible for a three month period, which means 12 issues (two years and two magazines, with one issue from each period). A total of 48 issues, including 385 articles, were analyzed. Before and during coding, the four coders had intensive discussion and practice sessions. For calculation of intercoder reliability, 16 articles were randomly chosen from the sample, and were coded by all four coders. The overall reliability was 98.43%, using Holsti's formula. [15] The most important variable, favorability, achieved a reliability of 87.5%.

All articles about Warner's (before the merger) and Time Warner's films, records, and other entertainment products or personnel (e.g., artists, books, video tapes and television programs) were examined. The comparisons included *Time*'s content before and after the merger, and *Time* versus *Newsweek*.

The unit of analysis was a single article about entertainment products, which was coded as being favorable, neutral/balanced, or unfavorable (see Appendix). Because the amount of coverage could also suggest favoritism, column inches of each article was included in coding.

The favorability scale (1= favorable, 2 = unfavorable, 3 = balanced, 4. neutral) from the original coding scheme was recoded (1 = negative, 2= balanced/neutral, 3 = positive) in order to provide a favorability continuum.

In addition, this study qualitatively examined whether in 1996 Madonna and Hootie and the Blowfish (both are "owned" by Time Warner) appeared in

Time more often than in *Newsweek*, and whether they were covered more favorably.

The process by which the media give definitions of events is called framing or the presentation of frames.[16] The media give the public definitions of "current situations" by means that include: 1) persistent patterns of cognition, 2) interpretation and presentation; 3) selections; 4) emphasis; 5) omission and exclusions; and 6) tones.[17] Chan listed 15 media frame techniques concerning social dissident groups: 1) externalization of causes; 2) destructuralization of causes; 3) normalization of crisis; 4) delegitimation of behavior; 5) phenomenonization of the crisis; 6) appeal to higher principles of the existing system; 7) irrationalization of behavior; 8) demobilization; 9) symbolic accusation; 10) marginalization of action; 11) isolation of challengers' leadership; 12) allegation of the activists' ulterior motives; 13) fractionalization of the movement; 14) trivialization; and 15) disparagement of the movement's effectiveness.[18] The present paper utilized these guidelines to investigate whether or not and how both products where framed differently by *Time* and *Newsweek*.

The reason for choosing these two Time Warner "products" or "properties" is significant. Madonna was filming a movie and also involved in a controversy (pregnancy outside wedlock), and Hootie is arguably the most popular music group currently. Both magazines were thus likely to cover them. The difference in coverage could provide more vivid and up-to-date examples of the quantitative findings (which were based on 1986 and 1992 issues).

Although focusing on one artist and one group may not lead to a valid generalization, such case studies could offer more depth and thus better understanding of the difference between *Time* and *Newsweek* (concerning the topic of corporate interests). As a result, this comparison could compliment the quantitative part of the current study.

Quantitative Findings

H_{1A} and **H_{1B}** state that *Time* has had more, and more favorable, coverage of Time Warner's products after the merger than before (for coverage prior to the merger, only Warner products were analyzed). These are before-after comparisons within *Time*. In contrast, **H_{2A}** and **H_{2B}** compare the difference between both magazines.

Although some comparisons are not statistically significant, the recurring patterns in various tables still supported all hypotheses.

For example, while the chi-square was not significant on the .05 level, *Time* published 12 articles on Warner products before the merger, in contrast to almost twice as many (N = 23) after (X^2= 3.46, d.f.=1, p. < .10). In comparison, on non-Time Warner products, *Time* published 99 articles both before and after the merger. (See Table 1.)

Also, although the chi-square testing *Time*'s before-after coverage on Time Warner versus non-TW products was not significant on the .05 level again(X^2= 2.939, df= 1, p. < .10; Table 1), the difference was greater than *Newsweek* (X^2 = .045, df= 1, p. < .50; Table 2).

A closer look at both tables suggests that *Time* provided more coverage of Time Warner products than *Newsweek* after the merger. Before the merger, Time published 12 articles concerning Warner products, while Newsweek published 9. However, after the merger, *Time* had twice as many articles as

Newsweek (23 versus 11) for the same subject. Another way to look at it is that after the merger, *Newsweek* devoted only two more articles to Time- Warner products (from 9 to 11), while *Time*'s coverage almost doubled (from 12 to 23).

Therefore, although a chi-square test shows that these four frequencies (12, 23, 9 and 11) are not significantly different statistically (X^2= .6156, df=1, p. > .05), [19] considering the entire picture, the trends offered limited support to **H_{2A}** (after the merger, *Time* will have more coverage of Time Warner's products than *Newsweek*).

If we take space (squared inches) instead of sheer number of articles into consideration, we can see that *Time* has devoted much more space (434 versus 1126.5 sq. inches; or 2.6 times as much) to Time Warner products after the merger than before. The difference is statistically significant (X^2= 307.3, df = 1, p. < .01) (Table 3). Thus, **H_{1A}** is supported.

In comparison, *Newsweek*'s coverage of Time Warner products increased only 1.6 times (312.5 versus 500.8 sq. inches) after the merger (Table 3). In addition, looking at after the merger only, *Time* also devoted more space than *Newsweek* on Time Warner products (1126.5 versus 500.8 sq. inches; or 2.25 times as much). Therefore, the trends suggested that after the merger, *Time* had more coverage of Time Warner products than itself before the merger, also than *Newsweek*.

In fact, if we look at the difference of space devoted to Time Warner products before and after the merger between the two magazines, the difference is statistically significant (X^2 = 27.85, df. = 1, p. <.01) (See Table 3). Thus, **H_{2A}** is supported.

Time's coverage of Warner (N = 12, Mean = 2.000, s.d. = .739) and non-Warner products (N = 98, Mean = 2.4490, s.d. = .720) before the merger was significantly different (t= -2.03, df= 108, p. = .044). This means that *Time* was more negative toward Warner products before the merger. After the merger, *Time*'s coverage toward Time Warner (N= 23, Mean = 2.4348, s.d. = .788) became slightly more favorable (thus the difference was not significant; t= .15, df= 119, p. = .884) than toward non-Time Warner products (N = 98, df= 2.4082, s.d. = .784).

We should note that after the merger, *Time*'s treatment of Time Warner products has changed (in comparison to its before-merger coverage of Warner products). *Time* magazine's coverage on Time Warner products before the merger yielded a mean of 2.000 (N = 12, st. dev. = .739), while after the merger it was 2.4348 (N = 23, st .dev. = .788), which suggests higher favorability toward the latter although the difference was not statistically significant (t= -1.58, df=33, p. = .123). The same non-significant result appeared in the chi-square test between favorability by products for *Time*'s after-merger coverage. This indicates that there was no significant favorability difference in *Time*'s coverage of Time Warner versus non-TW products after merger (Table 4). Nevertheless, we can argue that **H_{1B}** (After the merger, *Time* will have more favorable coverage of Time Warner's entertainment products than before the merger) received limited support by the numbers and trends, although not statistically.

The overall chi-square testing the relationship between favorability and eight coverage categories (e.g., Time/before merger/on Warner products) was significant (X^2= 26.1785, df=14, p. = .02457) (Table 5). This means that coverage across groups was statistically different.

In terms of favorability, there was no significant difference between *Time* and *Newsweek* on Warner products before merger (X^2= 1.6, df=2, p.

=.44773) (Table 6). By contrast, there was a significant difference after merger between the two magazines (X^2=8.28, df=2, p. =.01585) (Table 7). Thus, **H_{2B}** was statistically supported. [20] The former finding (Table 6) strengthens the latter (Table 7), suggesting that both magazines covered Time Warner products differently after the merger.

If we compare both magazines' coverage of products before and after the merger (Tables 6 to 8), we can see an even clearer picture of *Time*'s bias toward Time Warner products.

Of the positive coverage of non-Time Warner products after the merger, 59.2% came from *Time* and 44.1% from *Newsweek*, with a difference of 15.1% (Table 8). By comparison, of the positive coverage of Time Warner products after the merger, 60.9% came from *Time*, while only 18.2% from *Newsweek*, with a much greater difference of 42.7% (Table 7). Therefore, we can argue that after the merger *Time* appeared to have more favorable coverage on Time Warner products than did *Newsweek*.

Unfortunately, due to expected problems (N's are smaller than 5 in many cells), some of the chi-squares mentioned above were not significant on the .05 level. Even though Table 7 (both magazines' coverage on Time Warner products after merger) was significant, the result was less convincing because of the small N's in three cells. However, if we re-examine Table 7 and combine the negative and balanced categories, we will see a stronger support. There would be only two rows (positive and non-positive), and the X^2 became 5.4563 (df = 1), which was significant at $p < .05$. Thus, **H_{2B}** was again supported statistically.

To sum up, among all the hypotheses, **H_{1A}**, **H_{2A}** and **H_{2B}** were supported statistically. If we look at the predicted patterns (although not statistically significant) in the tables, we can see a trend that offers limited support to **H_{1B}** also. In other words, the Time Warner merger appeared to have an impact on *Time*'s coverage (both amount and favorability) of its parent company's products.

Qualitative Findings

The qualitative research question is as follows: in 1996, do Time and Newsweek cover Madonna and Hootie and the Blowfish differently? If yes, how?

Time appeared to provide more and more favorable coverage of Madonna. In the January 15, 1996, issues, both *Time* and *Newsweek* reported a law suit in which Madonna accused a man of stalking her. *Time* had a one paragraph brief (with a photo showing her face) stating that the "exhibitionist," Madonna, appeared in court as a witness. Although she hesitated, she "sedately took the stand anyway."

On the other hand, *Newsweek* reported that Madonna "had good reason to feel scared." It also stated that the accused made death threats. Madonna felt "incredibly disturbed" in her 75-minute testimony. Also, the magazine showed the suspect's photo instead of the victim's. We can see how both magazines framed this incident differently. *Time* portrayed Madonna as at least somewhat confident in the trial. It chose to omit the negative information reported in *Newsweek*. By contrast, *Newsweek* provided an unpleasant frame with words like death threats and emotional disturbance, as well as a picture of the suspect staring at the reader.

In the January 26, 1996, issue, *Time* has an article discussing whether million dollar deals with certain singers are worth the money. This article features the pictures of four people: George Michael, Madonna, Prince, and Janet Jackson. Among the four, only George Michael is not under a Warner label. The description of Madonna is that, although her sales are down, "the deal's overall returns" look good. Her private label "has faired well," partially because she signed a recent success, Alanis Morissette.

Madonna has been filming a movie *Evita*. Her photograph in costume occupied half the space of a short article that appeared in the February 12, 1996, issue in *Time*. This film has generated negative reactions in Argentina because Madonna plays the leading role. However, the film's director stated that negativity came from "an extreme minority faction," and that the opposition would be "pleasantly surprised" to see the final product. This article marginalized the opposition as a minority opinion, and "eased" the tension by promising a positive outcome.

This movie was not discussed in *Newsweek* until three months later, May 27. It reported the positive reactions it has received during a 10-minute peek preview at the Cannes Film Festival. Although the coverage was favorable, the space devoted to this article was only about two thirds that of the *Time* piece. The photo (showing Madonna and a male actor in the movie) is about half the size as the one in *Time*. *Time* covered this film much earlier, and went directly to the people involved. *Newsweek* waited for an official occasion (a major film festival) and reported the critics' opinions. It can be argued that *Newsweek* was less interested in this film, although surprisingly *Time* did not cover the positive reactions at Cannes.

Madonna's pregnancy became the topic of two cartoons in both *Time* and *Newsweek* in their April 29, 1996, issues. The *Time* cartoon is somewhat neutral, featuring a fake religious drawing showing Madonna holding the father of her child in her hand. The caption read that as a part of the search of a career boost beyond *Evita*, Madonna now has a child, who was "engendered in collaboration with personal trainer/boy toy Carlos Leon." The *Newsweek* cartoon carried a more sarcastic tone. It showed a baby wearing sun glasses and pointed metal bras, and a nurse saying "That's Madonna's Baby." This made fun of Madonna's eccentric looks from her earlier career.

In the same issue, *Time* had a short piece in the People section about her, showing a smiling Madonna standing next to her boyfriend, the child's father. This article called motherhood a cure for her "chronic perfectionism and self-obsession." It also quoted the actor/singer's publicist, saying that she was very happy, "having a great pregnancy," and expected to "live happily ever after" with her boyfriend.

By contrast, *Newsweek* published a one-page sarcastic and negative commentary on the same date, saying Madonna should not have a baby out of wedlock because she was a potential role model for teenagers.

It is obvious that *Newsweek*'s coverage of Madonna and her pregnancy was more negative than *Time's*. *Time* used only neutral and positive words to describe this incident and Madonna's reaction to her pregnancy, while *Newsweek* ridiculed the situation.

The coverage of another popular Time Warner product, Hootie and the Blowfish, showed similar difference. In a March 4, 1996, *Newsweek* article on Grammys, this group was briefly mentioned: they "got only two nominations," a statement that can be seen as trivialization or marginalization of the honor. In the same magazine on April 22, 1996, there was a two-column article, titled "The Unbearable Lightness of Being Hootie." The sub-head was "Their brand-new album is the same old formula." The overall comment about this group can be summed up by the last sentence of the article: "artistically they're guilty in the first degree." We can conclude that *Newsweek* disliked this popular group.

In comparison, a week later (April 29, 1996), *Time* had a five-page article praising Hootie, titled "Can 13 Million Hootie Fans Really Be Wrong?" This article traced the group's history, described how popular the band's members are in their hometown and other places, and provided examples to show that the members of this "megasuccessful band" still looked and acted like "college guys." It also reported that their first album was the second best-selling debut albums of all time. Hootie's being widely supported and popular was the tone or framing of this *Time* article.

These examples support the quantitative conclusion that *Time* tends to have more favorable coverage of Time Warner products than *Newsweek*.

Conclusion and Discussion

The overall findings of this study suggest that *Time* shows favoritism toward Time Warner products after the merger, both in terms of the amount of coverage and the level of favorability. Therefore, ownership likely has an impact on media content.

All study designs have strength and weakness, and the present study is no exception. The small cell sizes in certain chi-squares may have been a problem. Therefore, future studies should increase the sample size, such as including at least one more year before and one more year after the merger.

Also, although the importance of *Time* and *Newsweek* makes the present research worthwhile, no final words about ownership's impact on content can be concluded based on the study of two magazines. To make a stronger case, more media should be examined. On the other hand, because of the status of both magazines in the journalism profession of this country, the finding itself is important.

There are also methodological limitations. For instance, content analysis can only provide circumstantial evidence to support the underlying question of this study, which is the role of media ownership and self-interest. Whether reporters write under management's direct pressure, or whether they cover news with the media organization's self-interests in mind, cannot be proved by the content analysis of the products. In-depth interviews of reporters and corporate executives and observations in the newsroom and corporate meetings seem more appropriate.

However, these methods also have their own limitations. For example, subjects may not agree to be interviewed. Even if they do, we do not know whether they would tell the truth. Access to newsrooms and meetings can be a problem too. In addition, observations have to be conducted during the development of an incident. In other words, we would have to be able to expect something before it begins, so that arrangements could be made ahead of time to observe within the environment.

By comparison, content analysis, at least in this case, is the most readily available mean of answering our questions. Future studies about media ownership's impact on content can use the present research's findings as a foundation or starting point for further inquiries.

Notes

[1] For example, David P. Demers, "Autonomy, Satisfaction High among Corporate News Staffs." *Newspaper Research Journal* 16 (1995): 93-111.

[2] F. Norris, "Time Inc. and Warner to Merge, Creating Largest Media Company," *New York Times*, 5 May 1989, 1-1; Time Warner, Time Warner Inc. World Wide Web page, 22 Apr. 1996, http://www.hoovers.com/timewarn.html

[3] Legally Time Inc. purchased Warner. However, in reality it was a friendly merger (*Time*, June 26; July 24, 1989).

[4] "Time Inc. + Warner Communication: Media Giants Strike Merger Deal," *Broadcasting*, 13 Mar. 1989, 28.

[5] Ben H. Bagdikian (1992). *The Media Monopoly* (Boston: Beacon Press, 1992); Leo Bogart, *Commercial Culture: The Media System and the Public Interest* (New York: Oxford Univ. Press, 1995); D. Gomery, "Mass Media Merger Mania," *American Journalism Review*, Dec. 1995, 46.

[6] J. Warren, "All in the Family: Time-Warner Merger Tests Media Credibility," *Chicago Tribune*, 12 Mar. 1989, 4-1; Bagdikian, *The Media Monopoly*.

[7] Maxwell McCombs, "Effect of Monopoly in Cleveland on Diversity of Newspaper Content," *Journalism Quarterly* 64 (Winter 1987): 740-744, 792; Bagdikian, *The Media Monopoly*; Bogart, *Commercial Culture*.

[8] Graham Murdock, "Large Corporations and the Control of the Communications Industries," in *Culture, Society and the Media*, eds. Michael Gurevitch, Tony Bennett, James Curran & Janet Woollacott (New York: Methuen, 1982), 118-150.

[9] Robert Burnett, "The Implications of Ownership Changes on Concentration and Diversity in the Phonogram Industry," *Communication Research* 19 (1992): 749-769; M. E. Lashley, "Even in Public Television, Ownership Changes Matter," Communication Research, 19 (1992): 770-786; Demers, "Autonomy, Satisfaction High among Corporate News Staffs."

[10] Bogart, *Commercial Culture;* Richard M. Clurman, *To the End of Time: The Seduction and Conquest of a Media Empire* (New York: Simon & Schuster, 1992); C. Bruck, *Master of the Game: Steve Ross and the Creation of Time Warner* (New York: Simon & Schuster, 1994).

[11] Warren Breed, "Social Control in the Newsroom: A Functional Analysis," Social Forces, 33 (1955): 299-306; Gaye Tuchman, (1978). *Making News: A Study in the Construction of Reality* (New York: Free Press, 1978); Paul Hirsch, "Occupational, Organizational and Institutional Models In Mass Communications," in *Strategies for Communications Research*, eds., Paul Hirsch, Peter Miller, and Gerald Kline (Beverly Hills, CA: Sage, 1977); Margaret Gallagher, "Negotiation of Control in Media Organizations and Occupations," in *Culture, Society and the Media*, 151-173; Murdock, "Large Corporations and the Control of the Communications Industries."

[12] In the corporate world, joint ventures within or across companies (such as sharing resources like distribution channels) sometimes could benefit all the parties involved. *Economist* "What's Japanese for Synergy?" 4 Nov., 1995, 72; Bagdikian, The *Media Monopoly*.

[13] Clurman, *To the End of Time;* Bruck, *Master of the Game*.

[14] The Washington Post Company World Wide Web page, 29 Apr. 1996, http://www.hoovers.com/upside/12444ml.html

[15] Ole R. Holsti, *Content Analysis for the Social Sciences and Humanities* (Reading, MA: Addison-Wesley, 1969).

[16] Ervin Goffman, *Frame Analysis: An Essay on the Organization of Experience* (New York: Harper & Row, 1974).

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[17] D. W. Greenberg, "Staging Media Events to Achieve Legitimacy: A Case Study of Britain's Friends of the Earth," *Political Communication and Persuasion*, 2 (1985), 347-362.

[18] Joseph Man Chan, "Mass Media and Social Conflicts: A Theoretical Review." Paper presented at the International Communication Association Annual Convention, San Francisco, CA, 1989.

[19] It should be noted that if we include both magazines' coverage (in terms of frequencies) of both Time Warner and non-Time Warner products, the overall chi-square is non-significant. It has eight cells (magazines by before/after by products). The chi-square is 3.65, df=3, p. > .50. The small X^2 value could be due to the similarity between cells concerning non-Time Warner products. If we take favorability into consideration, the chi-square becomes significant (Table 5).

[20] However, we need to note that there are expected problems ($N < 5$) in three cells.

Table 1

Time's coverage (# of articles) on products
before-after merger

	Before	After	Total
Time Warner	12	23	35
Non-T.W.	99	99	198
Total	35	198	233

X^2= 2.939, df= 1, p. < .10

Table 2

Newsweek's coverage (# of articles) on products
before-after merger

	Before	After	Total
Time Warner	9	11	20
Non-T.W.	68	60	128
Total	77	71	148

X^2= .045, df = 1, p. < .50

Table 3

Squared inches devoted to categories of coverage

Group 1:	Time/before/TW Products	434.0004
Group 2:	Time/before/Non-TW	5641.7526
Group 3:	Time/after/TW	1126.5009
Group 4:	Time/after/Non	5007.4992
Group 5:	Newsweek/before/TW Products	312.5
Group 6:	Newsweek/before/Non-TW	3921.0024
Group 7:	Newsweek/after/TW	500.7497
Group 8:	Newsweek/after/Non	3486.498

TW product

	Before	After
Time	434	1126.5
Newsweek	312.5	500.8

X2 = 27.85, df = 1, p. < .01

Non-TW products

TW product

	Before	After
Time	5641.8	5007.7
Newsweek	3921	3468.5

X2 = 0.29, df = 1, p. > .05

Table 4

Time magazine after merger on products

	Time Warner	Non-TW	Total
Negative	4	18	22
Balanced	5	22	27
Positive	14	58	72
Total	23	98	121

X^2= .02286, df=2, p. = .98863

Table 5

Favorability by Coverage Categories

Groups	1	2	3	4	5	6	7	8	Total
negative	3	13	4	18	2	12	1	7	60
balanced	6	28	5	22	2	28	8	26	125
positive	3	57	14	58	5	28	2	26	193
Total	12	98	23	98	9	68	11	59	378

X^2= 26.17850, df=14, p. = .02457; missing: 7 cases

Group 1: Time/before/ Warner Products
Group 2: Time/before/Non-W
Group 3: Time/after/TW
Group 4: Time/after/Non
Group 5: Newsweek/before/ W Products
Group 6: Newsweek/before/Non-W
Group 7: Newsweek/after/TW
Group 8: Newsweek/after/Non

Table 6
Coverage on Warner products before merger

	Time	Newsweek	Total
Negative	3	2	5
Row%	60.0%	40.0%	
Column%	25.0%	25.0%	
Balanced	6	2	8
Row%	75.0%	25.0%	
Column%	50.0%	25.0%	
Positive	3	4	7
Row%	42.9%	57.1%	
Column%	15.0%	20.0%	
Total	12	8	20

$X^2=1.60714$, df=2, p. = .44773

Table 7
Coverage on Time Warner products after merger

	Time	Newsweek	Total
Negative	4	1	5
Row%	80.0%	20.0%	
Column%	17.4%	9.1%	
Balanced	5	8	13
Row%	38.5%	61.5%	
Column%	21.7%	72.7%	
Positive	14	2	16
Row%	87.5%	12.5%	
Column%	60.9%	18.2%	
Total	23	11	34

$X^2=8.28963$, df=2, p. = .01585

Table 8
Coverage on non-Time Warner products after merger

	Time	Newsweek	Total
Negative	18	7	25
Row%	72.0%	28.0%	
Column%	18.4%	11.9%	
Balanced	22	26	48
Row%	45.8%	54.2%	
Column%	22.4%	44.1%	
Positive	58	26	84
Row%	69.0%	31.0%	
Column%	59.2%	44.1%	
Total	98	59	34

X^2=8.18071, df=2, p. = .01673

Appendix I: Time Warner Research Coding Sheet

General Information

1. Case ID #: ________
2. Article #: ________
3. Coder #: ________
4. Magazine: _______ 1. Time 2. Newsweek
5. Date (mm/dd/yy): _________
6. Page: ________
7. Number of page in this issue: _________
8. Length of article (column inches): ________
9. Number of column per page in article: _______

Article Information

10. What kind of play does the article get? _________
    1. Cover story 2. First half of magazine;
    3. Second half 4. End of magazine (last inside page)

11. Does this article appear in the entertainment or arts section of the magazine?_________
    1. Yes 2. No

12. Article Type: ________
    1. News or feature story 2. Review 3. News brief
    4. Column 5. Cartoon 6. Other

13. How many illustrations (photographs, drawing, cartoons, tables, charts, etc.)? _________

14. The article is primary _ about (Time Warner): _________
    1. the overall corporation (corporate activity, personnel, acquisitions, investments, finance, etc.)
    2. films (features/documentaries, videotapes, actors, directors, producers, personnel, studios, writers, etc.)
    3. cable television franchises (operations, personnel)
    4. TV programming (actors, directors, production, programs, writers, distribution, studios, etc.)
    5. music (albums, singers, songwriters, production, distribution, labels, concerts, etc.)
    6. books (authors, editors, agents, publishers, distribution, etc.)
    7. information services (on-line systems, new technologies, interactively)
    8. merchandising (of products, such as toys or food, related to one or more of the above)
    9. other (specify): __________________
    99. N/A

15. The article is primary _ about (Non- Time Warner): _________
    1. the overall corporation (corporate activity, personnel, acquisitions, investments, finance, etc.)
    2. films (features/documentaries, videotapes, actors, directors, producers, personnel, studios, writers, etc.)
    3. cable television franchises (operations, personnel)
    4. TV programming (actors, directors, production, programs, writers, distribution, studios, etc.)
    5. music (albums, singers, songwriters, production, distribution, labels, concerts, etc.)
    6. books (authors, editors, agents, publishers, distribution, etc.)
    7. information services (on-line systems, new technologies, interactively)
    8. merchandising (of products, such as toys or food, related to one or more of the above)
    9. other (specify): __________________
    99. N/A

16. Secondary focus (Time Warner): _________
    1-99 same as above

17. Secondary focus (Non- Time Warner): _________
    1-99 same as above

Favorability

18. With regard to Time Warner and/or Time Warner products, this article is generally: ___________
    1. Favorable (Time Warner and/or its products are portrayed as good, profitable, worthwhile, generous, etc.)
    2. Unfavorable (Time Warner and/or its products are portrayed as bad, greedy, ruthless, mean, etc.)
    3. Balanced (Time Warner and/or its products are shown in both positive and negative lights, and the balance is not obviously tipped in either direction)
    4. Neutral (factual account only; no clear adjectival description seen)
    9. N/A

Affirmative Action and Racial Identity in the O.J. Simpson Case

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Affirmative Action and Racial Identity in the O.J. Simpson Case

Abstract

In a continuing project designed to explore the role of racial identity in determining reactions to racially-charged, highly salient ("obstrusive") events, a structural equation model is developed around the construct of perceived innocence of O.J. Simpson. We construct a robust, multifaceted framework that acknowledges the power of attitudes, regardless of racial identity, in provoking such reactions. The study identifies factors that media the impact of (a) race and (b) media exposure patterns on perceptions of the guilt or innocence of O.J. Simpson--attitudes toward Affirmative Action, the perceived reality of television, and perceptions of a "mean world." We have "shuffled the race card" with a slim deck of alternative factors, eliminating race as a strong, direct causal agent. And, we have identified a number of ways in which media exposure serves as an important--yet indirect--predictor of attitudes toward the O.J. Simpson case.

Affirmative Action and Racial Identity in the O.J. Simpson Case

Few media issues have generated as much persistent debate as that involving the nature and influence of racial images in the mass media. The latter aspect seems relevant when considering the impact of press coverage of the O.J. Simpson murder trial--one of the most widely covered events of 1995-96 (Brown et al., 1997; Toobin, 1995). Such coverage may contribute to audience conceptions about race and race relations in America, including such corollary issues as the pervasiveness of discrimination and support for affirmative action.

Recent coverage of both Simpson's criminal and civil trials fits into a series of prominent, thematically linked news holes that have rekindled debates concerning issues of race, discrimination and fairness in the U.S. (e.g., Zuckerman, 1995a; 1995b) prominent events involving race to emerge in the 1990s include extensive coverage devoted to Rodney King's beating and subsequent race riots in Los Angeles, the State of California's attempt to end Affirmative Action in university admissions, publication of Hernnstein and Murray's (1994) controversial *Bell Curve* treatise on racial I.Q. gaps and Minister Louis Farrakhan's "Million Man March."

In this information environment of numerous high-profile cases related to equity for African-Americans, is it particularly important to investigate the role of race in the formulation of an observer's interpretations of such events. Initial observations about the Simpson criminal case indicated that race was paramount: Gallup poll data found that over 70% of White Americans believed Simpson to be guilty, compared with only 12% of African-Americans (Newport, 1995). In a rare attempt to probe the basis for this difference, another Gallup poll taken during the trial found that 66% of African-Americans thought that the U.S. justice system is biased against Blacks (Saad, 1995).

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As Thernstrom (1996) recounts, race became the very theme of the Simpson criminal trial. From the beginning, Simpson supporters portrayed him as a victim of the crime, a victim of overt racism. Simpson's defense team lambasted the forensic evidence presented against him, offering theories of a possible frame-up by racist police officers (Dershowitz, 1996). When the predominantly Black jury returned a "not guilty" plea for Simpson in less than three hours, outcries emerged from the public and the press (e.g., Director, 1995). Predictions of an increasing "racial divide" abounded. Researchers began to identify race as an important determinant of one's beliefs in Simpson's innocence (Salwen & Driscoll, 1996a, 1996b).

When examining differences in information processing across races, it's important to realize that reporting on Simpson represents a special case, one where "hot button" issues were perhaps sensationalized to further public interest in the proceeding and their profit-driven accounts of it. Or, as Gans (1979) maintains, journalists will supply interesting stories to please readers; that is, they "... make a special effort to find stories that will attract and then hold audience attention" (cited in Kraus & Perloff, 1985, p. 312). In that way, media coverage may serve to make polar the various "racial divides" on Simpson's guilt/innocence, general racial bias in the criminal justice system, and other issues of racial policy in the U.S.

Understanding portrayals of race

The literature offers considerable evidence that media portrayals of African-Americans (and other minorities) continue in negative and stereotypic veins (Atkin, 1992; Entman, 1992; Gerbner, 1993, Gerbner & Signorielli, 1979; Gray, 1994; Stroman, Merritt & Matabane, 1989-90). The racial hegemony indicated by a raft of empirical and critical investigations would lead one to a prediction of mainstreaming--greater exposure to mediated images of African-Americans may result in more consistent images of real-world African-Americans. However, Armstrong, Neuendorf and Brentar (1992) found a clear difference in effects of TV entertainment exposure (i.e., producing perceptions of Black Americans as more socioeconomically "upscale") and impacts of TV news exposure (i.e., related to perceptions of Blacks as relatively worse off socioeconomically).

The O.J. Simpson case ironically crystallized some of the more central themes in race coverage about which African-Americans have expressed concern for decades (e.g., U.S. Commission on Civil Rights, 1977), including "menacing" Black males and white victims (Campbell, 1995; Dates & Barlow, 1990; Hill, 1986). To be sure, the prominence of the case was catalyzed by other issues, such as athletic celebrity, interracial marriage, preferential justice accorded to the wealthy and free press vs. fair trial issues.

Writing on the latter issue, Gerbner (1995, p. 565) aptly summarized what's at stake in the debate concerning press coverage of Simpson's trial:

> Relationships between powerful social institutions are seldom in a state of equilibrium. The media are the cultural arms of the social order, taking the place of religion in the medieval power-nexus of church and state, and replacing it with telling stories for sale.

In order to get a better understanding of how sensationalized reporting values accompanying Simpson's trial coverage may have related to public attitudes concerning racism and public policy, it's useful to explore media influence from the perspective of Gerbner's cultivation theory. Cultivation theory is one of the more central frameworks for understanding long-term effects of media influence. As Jeffres, Atkin, and Neuendorf's (1994, p. 1) review suggests, "[c]ultivation research generally has focused on the relationship between media use, particularly TV viewing, and measures purporting to distinguish 'TV answers' from 'reality.' The cultivation theory offered by Gerbner and his associates (e.g., Gerbner et al., 1986) says that media cultivate or create for media audiences a picture of the world that looks much like the one they see in the media."

Cultivation theory extends beyond TV to include all media, which contribute to the symbolic reality of audiences. O'Keefe and Reid-Nash (1987) looked at the relationship between attention to TV and newspaper crime news and people's perceptions, attitudes and behaviors concerning crime. Using a two-wave panel survey, they found that greater attention to TV news was related to increased fear, concern and avoidance activity but no such effects were found for newspaper crime news attention.

Research in and outside of the cultivation tradition indicates that television viewing encourages stereotyping (McGhee & Frueh, 1980; Morgan, 1982; Morgan & Rothschild, 1983). Viewer interpretations of characters on television may be role specific, and perhaps mediated by social locators (Dambrot, Reep & Bell, 1988). Working from cultivation theory, Matabane's (1988) research on Black audiences found that heavier viewers were more likely than light viewers to agree that (a) blacks fit in, (b) blacks and whites are similar, (c) they socialize, and they were more likely to (d) overestimate the size of the Black middle class.

Focusing on news influences, a recent Gallup poll found that most racial attitudes were unaffected by the Simpson trial (Moore, 1996). Although whites and blacks hold contradictory views about Simpson's guilt, the ways they view one another remain unchanged. In accounting for that difference, research suggests that African-Americans have a unique orientation toward TV, given their higher levels of viewing and their dependency on the medium for news and information (e.g., Becker et al., 1992; Poindexter & Stroman, 1981).

When assessing the impact of media exposure on racial attitudes, we're left with a problem similar to that of cultivation research, one of comparisons (i.e., determining a "relevant point" with which to compare media answers). Potter (1991) notes that the media or "TV answer" is almost impossible to determine because viewers take into account so many contextual elements of portrayals when they infer meaning from media. However, as Neuendorf et al. (1995) note, we do not have the same comparison problem nor make the same assumptions if we apply Gerbner's mainstreaming concept to public opinion or perception issues. Mainstreaming says that attention to the mass media, and TV in particular, pulls people towards the middle. But, in the O.J. Simpson case, the challenge remains one of determining what “middle ground” might exist--coverage of the criminal trial was sufficiently polarized so as to emphasize purely “guilt” or “innocence.”

Drawing from that work, opinion surveys can pin-point the normative response on issues of public opinion. It may be profitable to rephrase the mainstreaming hypothesis so that we focus on whether attention to TV and the other media increases the likelihood that someone "shares" the local consensus on issues relating to O.J. Simpson. Additionally, we may look at whether heavy users of certain media are more homogenous, i.e., whether the variance on a perceptual or attitudinal measure is reduced with increasing exposure. But such perspectives still fail to provide a clear picture of the messages to which audience members are exposed (i.e., "pro" or "anti" Simpson), nor can they account for what audiences do with that information in terms of external (peer-group) or internal (psychological) filters. Cultivation theory assumes that TV provides a homogenous set of images; however, today’s fragmented content and exposure patterns foster greater selectivity on the part of audience members. Further, most studies focusing on this type of news information processing have addressed the "agenda-setting" function.

Agenda setting theory and research

As McCombs (1994) remarks, the press may not be very successful in telling us what to think, but stunningly successful in telling us what to think about. Working from that framework, the media elevate the importance of O.J. Simpson's trial in people's minds by presenting more and more information about it. Considerable evidence supports the agenda-setting relationship, with agenda-setting effects found to be greater for **obtrusive** issues--those with which one has had more experience (Watt, Mazza, & Snyder, 1993; Zucker, 1978). A case could be made that the alleged **police harassment** of Simpson represents an obtrusive issue, especially for lower income minorities who face higher rates of incarceration ("Blacks' lives", 1996; Wilson, 1980). In that regard, the media's influence would be relatively weak for these individuals, since they already have extensive experience with the issue. According to Neuendorf et al. (1997), such a dynamic explains the "racial divide" in public perceptions concerning Simpson's guilt, as African Americans are more likely to identify with police "rousting" of suspects in their community.

Using agenda-setting to predict issue salience

As the above suggests, agenda-setting studies tend to focus on such issues as violent crime, an issue which is unique because few in the audience have had direct experience with it (Ghanem & Evatt, 1995). As a result of the public's dependence on the news media for knowledge about crime, the news media could exert a particularly strong agenda-setting influence on the public's perceived importance or "salience" of crime. Yet as Surette (1992) observed with regard to such issues: "The relationship between the media's agenda and public agenda is rather gross, however, and far more needs to be known about the conditions that maximize and minimize their correspondence" (p. 88).

As outlined in the introduction, the national media gave extensive coverage to the O.J. Simpson trial. Framing that issue in the context of agenda-setting research, studies on issue "obtrusiveness" contend that personal experience with issues diminishes the news media's agenda-setting influence because personal experience provides the public with an alternative source of information about issues and reduces public dependency on the media for knowledge about public issues (Atwater, Salwen, & Anderson, 1985; Eyal, 1979; Hugel, Degenhardt, & Weiss, 1989; Salwen & Matera, 1992; Wanta & Hu, 1993; Weaver, Graber, McCombs, & Eyal, 1981; Winter, 1981; Zucker, 1978). In theory, if people have no personal experience with an issue and are completely reliant on the news media for their perceived salience of the issue, then their perceived issue salience should fluctuate relative to changes in news coverage of the issue. Likewise, if they are totally reliant on personal experience, then news coverage should not be associated with perceived public issue salience. But the relationship between media reliance and personal experience is complicated because people often have some combination of access to media and non-media information about issues.[1]

Research on other sensational crime events suggest that the O.J. Simpson case represents a special case of agenda-setting-- where a single issue dominates the media's agenda and pushes other problems to the sidelines (Carter, Stamm, & Heintz-Knowles, 1992; Zhu, 1992).

Selective perception and social affiliations

In examining how audiences process information on Simpson and on race relations generally, it's useful to consider the work on selective perception. In such a universally "obtrusive" case, where exposure to the issue is high across the board, with little variance across individuals, the emphasis on selective perception becomes particularly relevant. And, the question arises as to how strong media influences can be. Research dating to Lazersfeld, Berelson and Gaudet (1944) finds that there's a tendency for those who expose themselves most to mass media to change their behavior less than those not exposed to it. Media influences are thus neither monolithic nor all-powerful; rather, they result from active processing of information which Kraus and Davis (1976) deem a transactional communication dynamic.

Drawing from the early work of Lazersfeld, Katz and others, we see that interpersonal influences are more powerful than media influences. Media messages might, for example, pick up a reports from Simpson from news media. They would then pass the information along, after some modification, to members of their social circle. More recently, researchers have expanded the multistep flow by suggesting that people within different social classes make very different interpretations of media. As Straubhaar and LaRose's (1997, p. 419) summary suggests:

> People tend to talk about media to people similar to themselves in education, occupation, wealth and family background. Going beyond the idea of opinion leaders, people tend to interpret media content through discussion with key groups of people called "interpretive communities."

Klapper (1960) also noted that the processes of selective exposure, perception and retention served to minimize media effects. In the present case, people would have a tendency toward selectively exposing themselves to messages compatible with their beliefs (e.g., "Simpson is guilty" reports or press conference from prosecution); they would avoid messages that are at odds with such beliefs. Even when audiences expose themselves to discordant messages, they tend to distort them through the "rose-colored lens" of selective perception, perhaps after discussing them with like-minded individuals. Thus, when Simpson supporters see debates about his guilt or innocence, they would tend to see the sympathizers as more persuasive. Finally, in accordance with selective retention, people's memories of media presentations are also distorted, so that months later a Simpson supporter might remember that a pro-Simpson rally outside of the L.A. County courthouse generated great sympathy, even if it fizzled.

TV told us that the O.J. trial was exceptionally important by its abundant coverage, but the coverage invariably provided a balance--of appearances by Blacks and Whites, of pro and con arguments and evidence--ample support for either side, to allow audience members to selectively interpret as they chose.

Predictive model

This study constitutes a next step in a process of model-building for the explanation of differential attitudes concerning O.J. Simpson's guilt or innocence. Previous analyses of the public opinion poll data described herein resulted in several important conclusions, including:

-While race was a significant zero-order predictor of perceptions of innocence of O.J., that relationship proved to be nonsignificant when other factors were taken into account.

-Significant positive predictors of perceived O.J. innocence included positive attitudes toward Affirmative Action, perceived reality of television, and a view of the world as mean and crime-ridden.

In these previous analyses, we determined that race was a minor contributor to perceptions of O.J.'s innocence, eclipsed to the point of nonsignificance when following other variables in a multiple regression equation (Neuendorf, Atkin, & Jeffres, 1997). Not content with simply dismissing race as a factor, we determined to explore the role that race does play in a model predicting attitudes toward the racially-charged Simpson case.

The hypothesized model is shown in Figure 1. Based on prior analyses and theories relating to selective perception of mediated messages, cultivation analysis, and agenda-setting, selected social locators (BLACK and INCOME) are linearly and directly linked to support for Affirmative Action (AACTION) and perceptions of O.J. Simpson's innocence (OJ). The Affirmative Action component is designated as the outcome of exposure to newspaper reports (NPAPER), along with the belief that African-Americans get the worst treatment in the mass media (WORSTBL) and, of course, racial identity (BLACK; Wilson, 1980). While a Black self-identification and newspaper readership have been inversely linked in past work (Jeffres, 1994), they each possess a direct causal path to Affirmative Action attitudes. Specifically, we expect that Blacks are more likely to support Affirmative Action, as are those who believe that African-Americans are treated badly in the media. To the extent that issues such as Affirmative Action generally receive unfavorable print media coverage (Gitlin, 1994), then newspaper readership should be inversely linked to support for the issue.

Figure 1 about here

We expect that the strongest supporters of Affirmative Action are likely to be Black (e.g., Blalock, 1982; Giddings, 1984)--as are those of Simpson (Toobin, 1995). The model also predicts a direct causal flow from Affirmative Action attitudes to attitudes about O.J.'s guilt or innocence, linked via the mechanism of a cynical view of the "systems" surrounding the Simpson case--the police, the justice system, the media. Those who perceive a pattern of strong institutional racism may also be more likely to accept the Simpson defense position of a broad-based institutional conspiracy inspired by racism.

Although Affirmative Action attitudes and race are central to our model's prediction of perceptions of O.J. Simpson, three other direct causal agents are posited: (1) Perceived reality of television (PR) is seen as an outcome of exposure to fictional video images in the home

(TVYESTER and VIDEOS), and a direct influence on O.J. attitudes. Acceptance of the simplistic, hegemonic vision of good-guys vs. bad-guys prominent in television and video content is posited to lead to an acceptance of "sports hero" O.J. Simpson's conspiracy defense, in the absence of contradictory documentary evidence. (2) Perceptions of the real world as mean and threatening (MEAN) are predicted to serve as another direct link to O.J. attitudes, such that a more pessimistic vision would relate to acceptance of O.J.'s defense of police incompetence and conspiracy. Such a "mean world perception" is placed in the model as a cultivated outcome of exposure to videos, exposure to movies in the theater (MOVIES), lower income (INCOME), and a cynical attitude toward people's motivations (PEOPBAD). Simple TV exposure (TVYESTER) is not linked to the mean world attitude, based on earlier analyses that revealed that it was far less influential in determining the attitude than were video and movie exposure. (In the increasingly fragmented entertainment industries, perhaps the *really* meanest worlds are those found in the most "selective" moving media--videos and feature films.) (3) Household income is displayed as an important predictor of attitudes toward O.J. Simpson's guilt or innocence, with the notion, supported by past investigations, that poorer respondents would be more likely to accept a conspiracy defense.

Two interaction effects are posited in the model: (1) An interaction between race and perceptions of negative Black stereotypes in the media (INTBW) reflects the selective perception notion that Black viewers may respond to negative Black stereotypes with a stronger commitment to Affirmative Action than will non-Black respondents. (2) An interaction between race and newspaper readership (INTBN) is also based on selective perception precepts, allowing for differential responses to newspaper coverage--e.g., Black readers respond to news by becoming more supportive of Affirmative Action, while non-Black readers do not.

Methods

Data for this study were collected via a telephone poll involving a regional probability sample from a metropolitan area in the Midwest. Completed in 1995, the poll yielded a sample of 313 respondents using traditional random-digit dialing techniques applied to a CATI system. The survey was introduced to potential respondents as a general poll about current issues, and contained items tapping respondents' opinions on a wide variety of issues. (i.e., The data analyzed for this study were a subset of the large-scale North Coast Poll.) Eleven-point Likert-type questions tapped a five-item Perceived Reality (of television) index ("PR"; Rubin, Palmgreen, & Sypher, 1994), the three-item Mean World index ("MEAN"; Rubin et al., 1994), and a number of original items measuring attitudes toward racial issues:

"Affirmative Action is still necessary to help minorities and other groups." ("AACTION")

"Some people are just plain bad." ("PEOPBAD")

"From the evidence so far, it looks like O.J. Simpson is innocent." ("OJ")

Open-ended questions included:

Name three racial or ethnic groups that you think get the worst treatment in the mass media.

How would you describe your ethnic background?

From these open-ended questions, dummy-coded indicators were created, including:

Names Blacks among top 3 worst media images. ("WORSTBL")

Self-identifies as Black American (or African-American or Afro-American). ("BLACK")

Other items measured social indicators ("INCOME"[2]) and media habits (hours of TV viewing yesterday ("TVYESTER")), number of movies seen at a theater in the past month ("MOVIES"), number of rented or borrowed videos viewed in the past month ("VIDEOS"), and number of days reading the newspaper in the past week ("NPAPER").

The two standard indexes were each submitted to reliability analysis, and showed acceptable levels of Cronbach's alpha (PR alpha=.58; MEAN alpha=.73), and an additive index was constructed for each.

Finally, two interaction terms were constructed: (1) "INTBN"--Black identity and newspaper readership (BLACK X NPAPER), and (2) "INTBW"--Black identity and perceptions that Blacks are among the worst media images (BLACK X WORSTBL).

The sample was 55% female, with a median age of 40 years. Sixty-four percent self-identified as White and 14% as Black. Other groups of non-White, non-Black respondents were not numerous enough to warrant separate coding.

Forty-eight percent of respondents gave an assessment of O.J. Simpson as having a "guilty" valence, and 19% gave responses on the "innocent" side of the scale. A full 33% fell at the midpoint of the 11-point scale.

The correlation matrix for all model variables is displayed in Table 1.

Table 1 about here

Results

The hypothesized model as displayed in Figure 1 was submitted to structural equation analysis via the LISREL 7.0 computer program. A maximum-likelihood solution was utilized, with a fixed model. The results of the first LISREL analysis revealed weak and nonsignificant contributions of the two interaction terms to Affirmative Action attitudes (standardized coefficients were .04 and -

.01 for INTBN and INTBW, respectively). And, this initial analysis resulted in the "automatic" model modification (based on modification indices) with the addition of a significant link leading from Affirmative Action support to perceived reality of TV. In order to assure an unbiased interpretation of the attendant main effects for race (BLACK), newspaper readership (NPAPER), and negative perceptions of mediated Black images (WORSTBL), the two interactions were dropped and a second LISREL analysis was conducted. The results of the refined analysis are shown in Figure 2.

Figure 2 about here

Overall, the model performed very well, with a total coefficient of determination of .30. Individual structural equations varied in their predictive power, but were all substantial (R^2s for the four equations were as follows: OJ, .17; PR, .09; MEAN, .10; AACTION, .14). The nonsignificant chi-square statistic indicates a favorable differentiation from the null model, and the goodness-of-fit statistic was quite strong (.98, with adjusted GOF of .94). The root mean square residual was .03.

Most of the specified links proved to be statistically significant, not a surprising result given that the model evolved from prior empirical work. The only nonsignificant links were those leading from MEAN to OJ (.07), from PEOPBAD to MEAN (.07), from MOVIES to MEAN (.12), and from BLACK to OJ (.12).

Although it is impossible to capture the richness of the entire significant model in a short description, the following provides a verbal "walk-through" of the key mechanisms discovered here: An individual perceives consistently negative Black images in the media, and does not access the "big

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picture" available in newspapers that may provide diverse and alternative minority images. The individual, who is more likely to be African-American but is not necessarily of that race, begins to believe that things are bad for Blacks in our society, and perceives a real need for Affirmative Action programs. S/he also sees a world on TV that conforms to this notion, and believes more strongly in the reality of televised images. Additionally, the individual is likely to be poorer, and to view the real world as "meaner." S/he can more readily identify with the supposed victimization of O.J. Simpson. This constellation of influences may lead to the individual believing in O.J.'s innocence--believing "the system" to be eminently capable of setting him up, the victim of a hostile, unfair, and possibly racist society.

Discussion

This research has extended prior work that began the process of removing race as a direct and causal agent in determining attitudes toward racially-charged events such as the O.J. Simpson case. It continues the process of constructing a theoretical framework which does not exclude the "obvious" (but nonsignificant) predictors, but rather places them appropriately in a multistep structural equation model. Here, we established that racial identity is indeed a "player" in the model predicting such attitudes, but as an indirect influence in the complex model. Quite simply, it's not as clear-cut as "Black vs. White," the simplistic vision the popular press would have us believe. Wilson's (1980) prescient insistence on "The Declining Significance of Race" warrants a revisit.

The importance of support for Affirmative Action is clear from the model's structure. It is through this nexus that African-American racial identity, newspaper readership, and perceptions of negative African-American media images express their influence on perceptions of O.J.'s innocence. It is this variable that, surprisingly, exhibits strong influence on perceived reality of TV, which in turn shows a direct influence on O.J. attitudes.

That the two hypothesized interaction terms proved to be nonsignificant is both surprising and informative. While one might expect Black and non-Black Americans to respond differentially to negative stereotypes of Blacks in the media, this does not seem to be the case. Blacks and non-Blacks respond fairly equally when they perceive that Blacks are among the most negatively stereotyped racial/ethnic groups--they feel a greater need for Affirmative Action in our society. And, Blacks and non-Blacks also respond in approximately equal fashion to newspaper content--the more they read, the less they feel Affirmative Action is needed. The relatively homogenous way in which these strong predictors of Affirmative Action attitudes operate actually refutes the notion that a racial schism is dividing our society. The notion that polarizing media coverage in the Simpson case resulted in attitudinal divergence does not receive support from this study. Nor is our original notion of selective perception supported--the expectation of Blacks and non-Blacks reacting differently to mediated images in their formation of perceptions of the current necessity for Affirmative Action.

In the nonsignificance of the two interaction terms, the model begins to eliminate potential explanatory mechanisms for the racial division in responses to the O.J. Simpson trials (Newport, 1995; Saad, 1995). What is needed now is the introduction of additional factors that will help explain why African-Americans perceive a greater need for Affirmative Action. From this study, we see that it is not because of differential reactions to stereotypes of Blacks in the media, nor to differential interpretations of print news. Additional factors may include types and numbers of interpersonal relationships, parental influence, and personal experiences with institutional discrimination. With relevance to the O.J. case, this might include personal experience with police harassment ("Blacks' lives", 1996; Wilson, 1982).

Perceived reality of television plays a strong and surprising role in the model. Influenced by TV and video exposure (with video exposure leading to lower credence given to TV images), perceived reality shows a strong direct impact on attitudes toward the guilt or innocence of O.J. Simpson. Additionally, the influence of Affirmative Action attitudes on perceived reality, originally unhypothesized and "automatically" added to the model by LISREL's modification option, clarifies an intricate role in the model. Seemingly, TV still presents a social world that confirms the notions of those who maintain that Affirmative Action is a necessary component to American society. The resultant perceived reality then is one significant influence leading to perceptions of O.J.'s innocence.

"Mean world" perceptions, originally hypothesized to play a major role in determining attitudes toward O.J., did not. The construct is a "player" in the model, serving as a non-causal connector between income and specific media exposure measures, but not a strong direct influence on O.J. attitudes. It should be noted that, diverging from the work of Gerbner and his associates but as predicted by us, perceptions of a "mean world" in this study are not directly related to TV exposure, but rather to video and film exposure, providing support for the notion of a "meaner world" of feature films.

In concert with this finding, it is interesting to note how variously the five media measures perform in the model. Different types of exposure result in different mechanisms in the model overall, extending the work of Armstrong, Neuendorf, and Brentar (1992). And, media variables are "bridesmaids" with regard to determining attitudes toward the innocence of O.J.--all are indirect rather than direct influences. Succinctly put, media exposure can perhaps be viewed as a necessary but not a sufficient element in attitude formation on issues related to race, as the Kerner Commission first noted thirty years ago.

Always, it is as telling to consider the links not found significant in the model as it is to examine those that are significant. For example, there is no evidence of a mainstreaming function for negative media portrayals of Blacks (TVYESTER and WORSTBL are relatively unrelated; r=.03). And as noted before, the two interaction terms and race (BLACK), all with significant zero-order relationships with their posited outcomes, fail to provide significant contributions when the full model is tested.

Clearly, there are still factors unaccounted for in the model predicting attitudes toward the O.J. Simpson case. While the model displayed in Figure 2 has an impressive goodness-of-fit, the variances accounted for are only moderate. That is, given the variables tapped for this study, the model performs admirably; but, the measurement and inclusion of other variables might provide greater prediction.

When considering the present results, it should be remembered that this survey represents a snapshot of public opinion in a large, ethnically diverse community during mid-1995. Respondents didn't have the benefit of knowledge of evidence subsequently introduced during Simpson's civil trial which more directly impeached his credibility (e.g., the Bruno Magli shoes . . .). Although it's difficult to determine how such disclosures might have influenced the responses of this sample, subsequent work suggests that Simpson now enjoys less public support, although a racial divide persists (Time, 1997).

This study is an attempt to build a robust, multifaceted framework that acknowledges the power of attitudes, regardless of racial identity, in provoking responses to a racially-charged event. We have succeeded in identifying factors that mediate the impact of (a) race and (b) media exposure patterns on perceptions of the guilt or innocence of O.J. Simpson. With regard to the former, we have "shuffled the race card" in a slim deck of alternative factors, eliminating race as a strong, direct, causal agent. With regard to the latter, we have avoided the pitfalls of assuming a strong, direct influence of simple media exposure, and continued the process of the elaboration of media effects on attitudes important to our lives and to our society.

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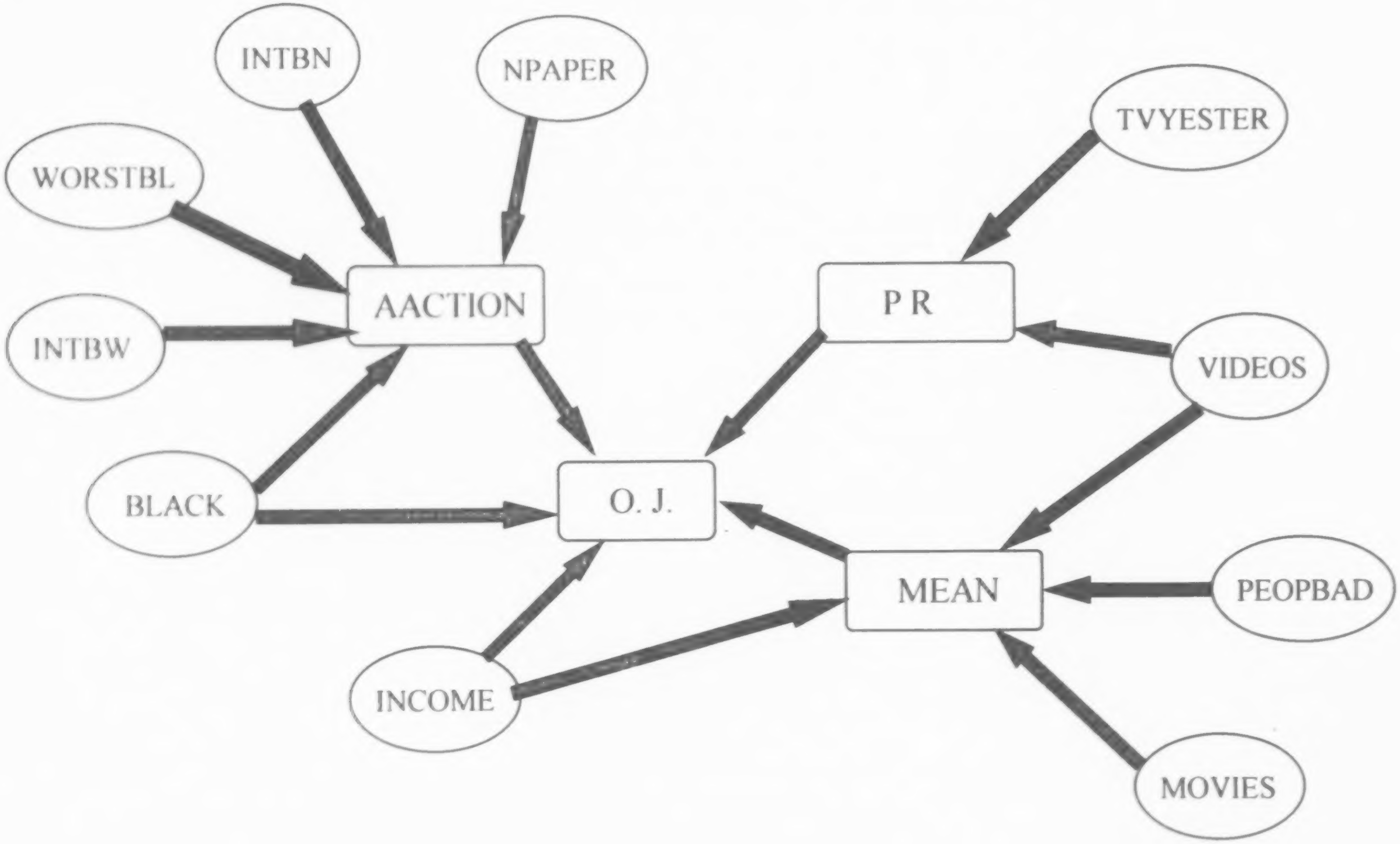
Endnotes

1. Alternatively, a body of agenda-setting research that treats geographic proximity as a surrogate for obtrusiveness offers insight into the obtrusiveness concept. As Palmgreen and Clarke (1977) stated, "[T]he media play very different agenda-setting roles depending on whether the issues under study are of local or national origin" (p. 451). In essence, geographically proximate issues are thought to be more obtrusive than distant issues because they are more likely to be directly observed. This is because they are occurring "close to home," and therefore might have more personal consequence than geographically distant issues.

2. Numerous other indicators in the survey tapped additional standard social indicators (e.g., gender, age, educational level, marital status), attitudes toward crime, poverty, racial stereotyping, and problems facing society, and additional media habits and preferences (e.g., books read, radio listening). Multiple regression analyses eliminated these as important influences on attitudes toward O.J. Simpson's innocence or guilt.

Figure 1 Hypothesized Model Predicting Perceptions of O. J. Simpson's Innocence


INTBN
NPAPER
TVYESTER
WORSTBL
AACTION
P R
INTBW
VIDEOS
BLACK
O. J.
MEAN
PEOPBAD
INCOME
MOVIES

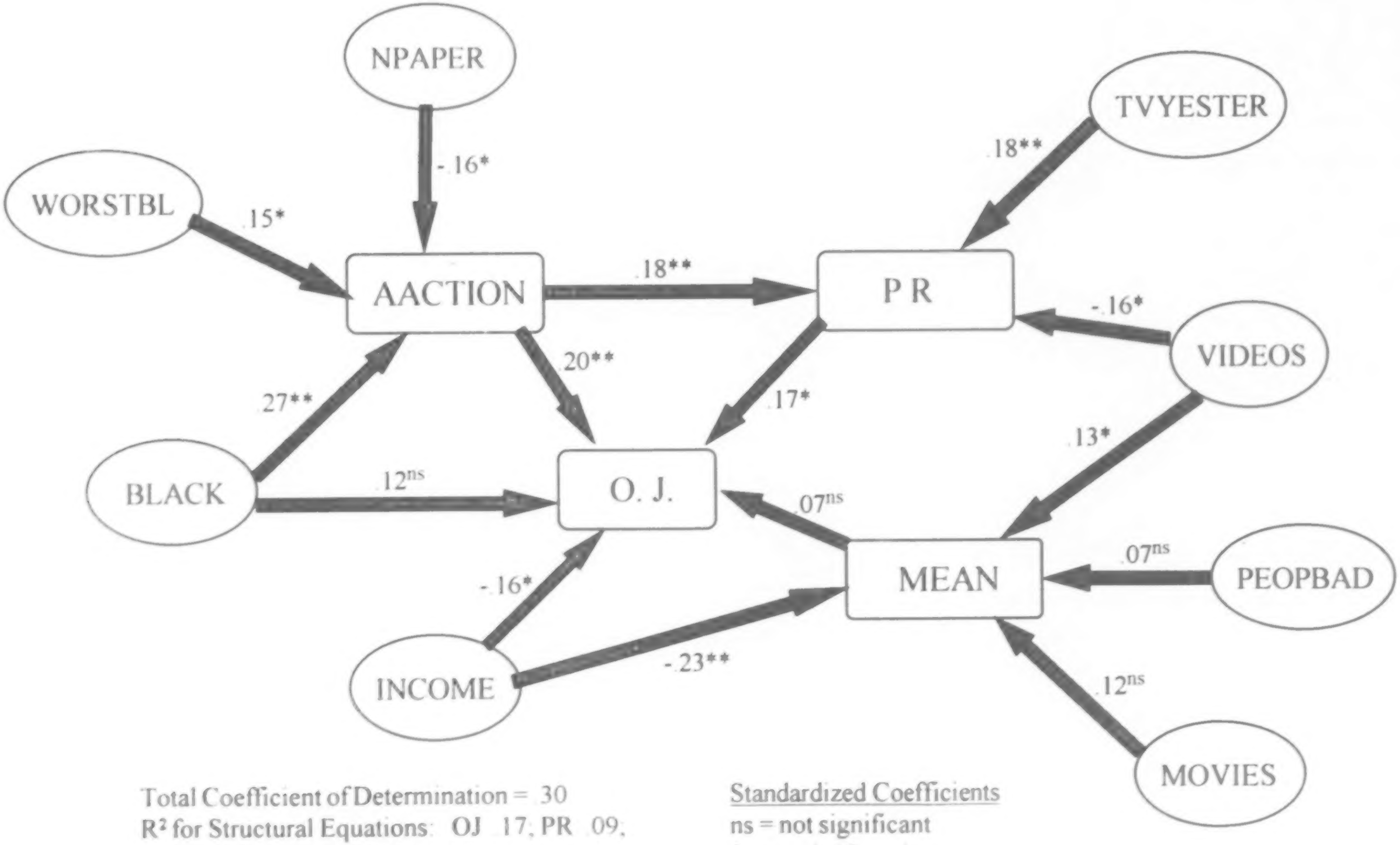
RON

Table 1. Correlation Matrix for Study Variables

	OJ	PR	MEAN	AACTION	TVYESTER	VIDEOS	PEOPBAD	MOVIES	INCOME	BLACK
OJ	1.000									
PR	0.244	1.000								
MEAN	0.164	0.122	1.000							
AACTION	0.306	0.199	0.125	1.000						
TVYESTER	0.050	0.175	0.131	0.056	1.000					
VIDEOS	-0.047	-0.154	0.142	-0.060	0.075	1.000				
PEOPBAD	0.052	-0.006	0.086	-0.021	0.018	-0.100	1.000			
MOVIES	0.048	0.019	0.136	-0.041	0.074	0.138	0.055	1.000		
INCOME	-0.261	-0.118	-0.242	-0.192	-0.134	-0.008	-0.107	0.004	1.000	
BLACK	0.238	0.101	0.087	0.309	0.190	-0.054	0.042	0.076	-0.221	1.000
WORSTBL	0.088	0.044	0.104	0.188	0.032	0.046	0.005	0.138	-0.051	0.141
INTBW	0.129	0.082	0.043	0.276	0.093	-0.021	-0.005	0.107	-0.136	0.803
NPAPER	-0.089	-0.016	-0.202	-0.183	0.065	-0.121	0.026	0.064	0.140	-0.095
INTBN	0.226	0.137	0.076	0.225	0.167	-0.082	0.107	0.170	-0.179	0.799

	WORSTBL	INTBW	NPAPER	INTBN
WORSTBL	1.000			
INTBW	0.322	1.000		
NPAPER	0.010	-0.074	1.000	
INTBN	0.115	0.646	0.139	1.000

Figure 2. Structural Equation Model Predicting Perceptions of O. J. Simpson's Innocence


NPAPER
TVYESTER
WORSTBL
AACTION
P R
VIDEOS
BLACK
O. J.
MEAN
PEOPBAD
INCOME
MOVIES
-.16*
.15*
.18**
.18**
-.16*
.20**
.27**
.17*
.13*
.12^{ns}
.07^{ns}
.07^{ns}
-.16*
-.23**
.12^{ns}

Total Coefficient of Determination = .30
R^2 for Structural Equations: OJ .17; PR .09;
MEAN .10; AACTION .14
χ^2 = 26.79 (p = .68)
GOF = .98, Adjusted GOF = .94
Root Mean Square Residual = .03

Standardized Coefficients
ns = not significant
* = p < .05
** = p < .01

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Moving to the center: Press Coverage of Candidates' Ideological Cleavage in a Campaign

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Moving to the center:
Press Coverage of Candidates' Ideological Cleavage in a Campaign

Abstract

Many political studies conclude that the ideological center is the winning position in elections. Considering the difference between Democrats, Republicans and the general population, candidates should compete for their partisan centers to win the primaries, then move to the center to win the general election. With empirical data, this paper tests whether there are indeed three ideological centers, and whether the press coverage of the 1996 presidential election supports the moving-to-the-center hypothesis.

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Moving to the center: Press Coverage of Candidates' Ideological Cleavage in a Campaign

Introduction

A common strategy for winning elections, as suggested by an influential political model (Downs, 1957), is to stay in the middle-of-the-road on policy issues or to be a so-called "centrist." This Downsian model theorizes that the distribution of voters' ideology is a normal distribution, which means that most voters are moderate instead of liberal or conservative. As a result, a centrist candidate can appeal to the majority and receive more votes. This model has received support from both theoretical and empirical studies.

A logical follow-up question is, considering the difference between the primary and general elections, does the ideological center stay the same? In other words, is the ideological center within a party the same as the center of the whole population? If not, then the candidates should compete for the partisan centers first and the general center later. Thus, there should be an ideological center-leaning cleavage over time in a race.

Intuitively, the best way to study candidates' ideological shift is to examine their position papers and speeches. However, the importance of the mass media as sources of political information has been increasing. We are in an era when most voters essentially obtain all their information about candidates through the mass media. Therefore, it can be argued that candidates' ideological positions only exist (and matter to voters) when they are reported by the media.

In addition, it is common perception that the two major U.S. parties, the Democrats and Republicans, differ ideologically, one on the left (liberal) and the other on the right (conservative), while the general population (including Democrats, Republicans and independents) is in the middle. Many take this for granted without questioning. It is beneficial to examine whether conventional wisdom or stereotypes differ from reality.

This paper has three goals: 1) to test whether the partisan centers differ from the population center; 2) to examine whether the media agree that there is a center-seeking movement among candidates during a campaign; and 3) if the media support the existence of such movement, how the media cover such ideological cleavage. In short, the current study is to investigate the center-moving mechanism in media coverage of elections.

The 1996 presidential race was used for this study because of the importance and highly publicized nature of such campaigns. This election provides an ideal opportunity to answer the questions about Democratic and Republican candidates' ideological movement over time.

Literature Review

The center-seeking and moving-to-the-center mechanism

A dominant political theory by Downs (1957), whose origin can be traced back to Hotelling (1929) and Blacks (1958), suggests that in a bi-partisan democracy, both parties compete for the ideological center to maximize votes.

This theory has received support from numerous studies, both theoretical (e.g., Davis & Hinich, 1966; Davis, Hinich & Ordeshook, 1970; Coleman, 1971; Shepsle, 1972; Page, 1978; Enelow & Hinich, 1981, 1982, 1984; Hinich & Munger, 1994) and empirical (e.g., Page, 1978; Lee, 1995; Lee & Fung, 1995A, B). The consensus of these studies is that candidates who occupy the ideological center are likely to win.

However, all the research mentioned above used a "snap shot" approach and did not consider candidates' position shift over time in a campaign. As suggested by Lee (1995) and Lee and Fung (1995B), additional investigation of the candidate-cleavage hypothesis (whether candidates move their ideological positions over time) is worthwhile.

If candidates of general elections compete for the center in order to win, this should also occur in primaries. In other words, theoretically, candidates should first compete for the center in their own party primaries to win nomination, then compete again for the center in the general elections (Coleman, 1971, 1972; Page, 1978). The centers of primaries and the general elections should be different, considering the variance between parties and the general public. We can picture a Republican center on the right, Democratic center on the left, and a general public's center in the middle of the other two. Between primaries and the general election, the partisan nominees should move from the partisan centers to the general public's center of the ideological spectrum.

This argument was supported by a political analyst who stated that running "idea-based" campaigns were primary-based strategies. For general elections, "the dominant characteristic is the move to the center in an attempt to appeal to the independent voters" (Lehigh & Phillips, 1994).

Page provided mixed statements on candidates' movement. On the one hand, he argued that candidates tended to be consistent. On the other hand, he offered examples of candidates shifting (1978).[1] In addition, Morton (1993) concluded in her experimental study that candidates tended to converge toward centrist positions. Coleman developed theoretical arguments and mathematical formulas to explain the dynamic of position shift between the primary and the general election (1971, 1972).

---

[1] According to Page (1978), in the 1968 presidential campaign both Nixon and Humphrey changed stands on 7% (8 out of 122) of the issues.

There are more speculations on this subject. For example, Newman (1994) used marketing concepts to explain political campaigns. His theoretical two-stage center-seeking argument, a political marketing model, supports the movement hypothesis. According to him, when a campaign moved from one stage to another, "the segments that are targeted" changed. Consequently, the "candidate positioning" would move (11-12).

Although Newman did not specify that candidates would change stands on particular issues, his theory suggested that candidates may shift ideological positions on issues between different stages (e.g., primaries and the general election) of a campaign. It seems that a number of scholars agree with the possibility of a movement on the ideological spectrum.

By contrast, Page argued that shifts in issue stands would alienate candidates' early supporters, without convincing the new constituencies to whom they were trying to appeal. He also suggested that "trimming" or "waffling" would lead to negative evaluations of their personal characteristics (1978: 150). Similarly, some prestigious journalists also stated that "doing or saying something inconsistent with past words or deeds invites negative press coverage" (Jamieson, 1992).

Based on the studies cited above, it may be hypothesized that candidates move toward the center from the time of the primaries to the general election. Coleman's two-stage hypothesis was theoretical (1971, 1972); and Page's empirical evidence was gathered years ago (1978). Also, we need to consider the increasing power of media in elections. Therefore, the ideology-cleavage or moving-to-the-center hypothesis (partisan candidates move their ideological positions from the two sides to the center in the course of a campaign) is due for a test with more recent information reported by the media. Since it is journalists' nature to seek anything new and unusual, a candidate's change of issue stands (if any) is likely to be reported.

The media as a major source of political information

After viewing the center-cleavage hypothesis above, it is necessary to discuss why it is appropriate to study candidates' mediated ideological positions revealed in the media instead of their "real" policy stands (e.g., position papers and speeches).

The mass media in recent decades have become a major source of information for the voters in election campaigns (Khan, 1993; West, 1993). Graber described the role of the media in recent campaigns as "powerful and growing all the time" (1989: 227). The media appear to be important in the process of shaping voters' impression of candidates' ideological positions.

Of the various media forms, news appears to play the most significant role. News, as stated by media sociologists (e.g., Tuchman, 1978), is a "window on the world," and reality for many is constructed by the media. Nimmo and Combs suggested that political realities are in fact mediated illusions (1983). In this sense, news has also become the most important source of information for voters to perceive the ideological positions of the candidates.

In modern politics, most people do not have direct access to candidates, especially those in higher races. What voters learn "is not the real campaign but the media's version of it" (Patterson, 1980: 9). Thus, it can be suggested that no matter how far away the candidates' "real" positions are from what is shown in the media, only the mediated positions count. A good analogy of this situation is a cartoon in which a boy asking his father: "Dad, if a tree falls in the forest, and the media aren't there to cover it, has the tree really fallen?" (Noelle-Neumann, 1993.)

An explanation for the increasing power of media in election is that, according to Nelson (1993), Patterson (1980) and Wattenberg (1994), the function of other message outlets such as party organizations has been on the decline.

Research questions

The center-cleavage theory is based on the assumption that the ideological centers in the primaries are different from the center of the general election (meaning there are three centers). Therefore, the first research question is:

Q1: Do the partisan centers in the primaries differ from the population center in the general election?

Since this study argues that the media have become an essential source of political information, to study the ideology-cleavage theory, we need to investigate whether the media agree that there is such a phenomenon.

Q2: Do the news media agree that there is a center-seeking movement among candidates over time during a campaign?

If we find evidence of the media's support of such a phenomenon (saying that it does exist), does media coverage reflect such movement?

Q3: If the media support the existence of a center-seeking movement, does the media's coverage substantiate such an ideological cleavage?

Method

The NES (National Election Studies), a data set widely used in U.S. political studies (Flanigan & Zingale, 1991), helped answer the first question. The NES data identified survey respondents' party affiliation on a 7-point scale (strong Democrats, weak Democrats, Independents leaning toward Democrats, Independents, Independents leaning toward Republicans, weak Republicans, and strong Republicans). Respondents identified as apolitical, members of minor parties, or refused to answer (which accounted for a very small percentage) were treated as missing.

The first two and last two categories were re-coded into two groups: Democrats and Republicans; and Independents were disregarded in our analysis of partisan centers. However, all three groups (seven categories) were included in the analysis of the population center.

Using Demarcates and Republicans as the independent variable, a t-test was performed on respondents' self-reported ideology (from extremely liberal to extremely conservative) and each of eight ideological issues that were measured on a 7- or 5-point scale. These issues are: women's status, defense spending, governmental involvement in employment and standard of living, aid to Blacks, the balance between governmental service and spending, who (the government or private sector) should provide health insurance, preferential hiring of Blacks, and the death penalty. All these issue scales reflect a left-right or liberal-conservative spectrum.[2] A Pearson's correlation test, as well as Cronbach's alpha, were run (the ideological label against all 8 issues) to test the consistency between these scales.

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[2] In the original NES data, a couple of issue scales followed a right-to-left distribution. For example, on the issue of death penalty, 1 is "strongly favor" and 5 is "strongly oppose." To fit the left-to-right or liberal-to-conservative distribution, these scales were reversely re-coded.

Also, the partisan means were compared with the population's means on issues and ideological label to examine whether the three means are different. The operationalization of ideological or issue center is the mean score of a scale.

This study focuses on the most recent race of the most important kind in the United States, the 1996 presidential election. However, since the 1996 NES data were not available yet, the current study used the most recent NES set, the 1994 NES data (N=1795).

To answer the second and third questions, the Nexis/Lexis on-line data were utilized. We did keyword searches (of the entire text of articles) to identify and download magazine, newspaper and wire services articles, as well as broadcast news transcripts, that deal with both Clinton's and Dole's ideology or issue stands in the 1996 presidential campaign. Examples of keywords include the names of both candidates, "election," "primary," "presidential," "center," "middle-of-the-road," "centrist," "ideological," "ideology," "extremist," "extreme," "left," "right," "cleavage," "move," and "movement." The study period was from pre-primaries (late 1995) to October 1996. Only articles that are from well known media outlets (following the "prestige press" concept by Stempel & Windhauser, 1984) and clearly related to both candidates' ideology were selected. A total of 46 articles were identified and downloaded.

After printing out the selected articles, in-depth readings were performed, following the principles of qualitative textual analysis. Recurring themes and patterns in these articles were identified, recorded and treated as evidence (Berger, 1991; Lindlof, 1995).

To avoid repetition, only a portion of the downloaded articles was quoted as evidence in our qualitative findings, which is common among qualitative analyses. Such study's focus is the authority and richness of the data, rather than systematic or random sampling. Since our question is whether the media say that something exists, if a few authoritative news sources say so and no sources state otherwise, the answer is likely a "yes."

We did not find it necessary to conduct a quantitative analysis for the following reasons. First, the variety of media outlets (e.g., the *New York Times, Los Angeles Times, Chicago Tribune, Washington Post, Denver Post, Time, U.S. News & World Report*) in our sample appear to be representative of the mainstream print media in the U.S. Thus, we argue that the selected articles are sufficient to answer the second research question about media in general. Second, the third research question requires a qualitative historical type of analysis to produce the "entire picture" of a developing narrative.

Findings

Q1: Do the partisan centers in the primaries differ from the population center in the general election?

The answer to the first research question about ideological centers (among the Democrats, Republicans and the general population) was based on the analyses of the NES data.

We compared the centers (or mean scores) among the Democrats, Republicans and the general population. As expected, on all the issues and the ideological label, the Democratic center falls on the left of the population center, while the Republican center on the right (see **Table 1**). This supports the general perception of the distribution of partisan ideology. In other words, the partisan centers appear to differ from the population center.

Table 1 about here

It should be noted that this study assumes that issue positions manifest ideology. To defend this assumption, we tested the correlation between ideological label and issue positions in the NES data. The 7-point ideological scale was positively correlated to all eight issue scales (and all the correlations are statistically significant). The Cronbach's alpha of these 9 scales (ideology and 8 issues) is .75. (See **Table 2**).

Looking at Tables 1 and 2 together supports the conceptualization of using these NES scales to measure people's ideological distribution. Our analyses confirm the conventional wisdom that Democrats are on the left and Republicans on the right, in terms of the ideological label and issue positions. Thus logically it is acceptable to treat the mean scores of these issues (and the ideological label) as the centers of ideology.

Table 2 about here

To strengthen this argument, **t**-tests were performed to examine whether the two parties really differ ideologically. Again, as expected, Democrats and Republicans differ on all issues as well as the ideological label. The t-values ranged from 2.28 to 18.86. All the p-values were statistically significant (only one p-value is .023; all others are .000). (See **Table 3**.) This suggests that the ideological centers of both parties do differ. Thus, the answer to the first research question is yes.

Table 3 about here

Q2: Do the news media agree that there is a center-seeking movement among candidates over time during a campaign?

The news media agree that candidates (namely, Bob Dole and Bill Clinton) did shift ideologically (as reflected on issue stands) to the center.

Toward the end of primaries, a *Boston Globe* story reported that Dole was "being pushed both by party moderates and by senior advisers to move to the middle to win the general election" (1 May, 1996). Both the *Washington Post* (19 May, 1996) and *Dallas Morning News* (14 July, 1996) reported that former President Nixon once advised Dole to "run to the right in the primaries, but to the center in the general election."

Dole was not the only candidate who played the moving game. The *National Journal* analyzed the dynamic between both candidates' movement to the center (4 May, 1996). Both the *Denver Post* (1 Sept., 1996) and *U.S. News and World Report* (9 Sept., 1996) report that the Democrats and Clinton have "been turned back toward the center." A *Reuters World Service* story's headline reads: "Clinton's move to center frustrated Dole" (20 May, 1996). The same story argued that Clinton's move started right after the 1994 Republican victory. A *San Diego Union-Tribute* story also stated that Clinton has had a "strong move to the center over the past two years" (1 Sept., 1996).

After Clinton's "dramatic move to the center" (*Chicago Tribune*, 30 August, 1996), both candidates had been "campaigning as similar centrists" (*CNN Moneyline*, 4 Sept., 1996). However, the *Atlanta Journal and Constitution* stated that Clinton "was able to move more quickly and more credibly to the center" than his opponent (9 October, 1996). This may have been a reason that Clinton had been leading in the polls.

All the stories cited above indicate that the news media generally agree that both candidates moved ideologically during the campaign.

Q3: If the media support the existence of a center-seeking movement, does the media's coverage substantiate such an ideological cleavage?

Concurrent with the two-stage theory (primary and general elections have different centers for candidates to compete for), Dole was reportedly competing for the center in his own party early in the campaign (*Los Angeles Times*, 8 March, 1996). In other words, he had to cater to the right to win the Republican primaries. According to the *Boston Globe*, Dole was "trumpeting his conservative credentials to stop Patrick J. Buchanan" (2 April, 1996). For example, to win support from conservatives during the primary stage, Dole wrote to the National Rifle Association to indicate his intention to repeal the "ill-conceived gun ban passed as part of President Clinton's crime bill." He verbalized his strong opposition to gun control (*Los Angeles Times*, 10 July, 1996; *New York Times*, 26 Dec., 1995).

After winning the primaries, Dole started his move to the center. In early July, he abandoned his bid to repeal the assault weapons ban (*Boston Globe*, 10 July, 1996; *Time*, 22 July, 1996). He also proposed adding a "declaration of tolerance" on abortion in the party platform (*Los Angeles Times*, 10 July, 1996; *Gannett New Service*, 24 July, 1996). Furthermore, he was interested in having the pro-choice Colin Powell as his running mate despite the strong opposition from the conservative wings in his party (*Washington Post*, 19 May, 1996). Also, he invited a pro-choice politician, Susan Molinari, to be a keynote speaker at the Republican convention (*Gannett News Service*, 24 July, 1996).

However, Dole's effort was less than successful. His party, as well as the convention, was dominated by religious conservatives (especially those with an "anti-abortion passion") who have kept Dole "from reaching to voters in the center" (*New York Times*, 10 March, 1996; *Dallas Morning News*, 14 July, 1996; *Gannett News Service*, 24 July, 1996). Also, Republican leaders and legislators have strongly pressured Dole not to move to the center (*Boston Globe*, 1 May, 1996; *Time*, 22 July, 1996).

On the other hand, Clinton's move to the center was more successful. Facing no opposition in the primary, he started his move early. In his State of the Union address in early 1996, Clinton stated that he wanted to shrink the government, foster 'the growth of the post-industrial communications and high-tech economy," and took an anti-illegal immigration stance (*Sacramento Bee*, 28, Jan., 1996). He also adopted policies that are traditionally conservative, including proposals on school uniforms and V chips (a device to block violent TV programs), and even signed a welfare reform bill (*Chicago Tribune*, 28 August, 1996; *Time*, 22 July, 2 Sept., 9 Sept., 1996).

Clinton's movement to the center, according to a *U.S. News and World Report* article (26 Aug., 1996), arguably started in November 1994 when the Republicans won the election. Since then, the article reports, Clinton "has carefully led his party toward the center." His right-leaning move obviously paid off. In September 1996 he received the endorsement from the nation's largest police organization (*New York Times*, 16 Sept., 1996). In October he was endorsed by a large group of small business leaders (*San Francisco Chronicle*, 8 Oct., 1996). Such endorsements are rare for Democratic candidates because usually they tend to be perceived as being soft on crime and anti-business.

The stories cited above illustrate how media coverage has detailed both candidates' movement to the ideological center. They were more than a simple statement that there was an ideological center. These stories described how the candidates have changed their positions and moved between partisan and population centers.

Discussion

This study provides empirical evidence (in this case, quantitative data) to support the under-tested conventional wisdom that the Democrats and Republicans differ ideologically, while the general public's ideology falls between the two parties. Thus, logically, partisan candidates would compete for the centers within their own parties in the primaries, then move to the population center to win the general election.

Our other findings suggest that the media support the concept of ideology cleavage among candidates. Also, based on press coverage, candidates tend to believe that moving to the center is a desirable strategy to win elections. In addition, This paper illustrates how media coverage substantiates such ideological shift.

Please note that this study takes what the media report as political reality. In other words, this is based on the assumption that voters rely on the news media for political information, and vote accordingly. Testing this assumption would be an ideal topic for other research.

Future studies should address the weakness of the present research. First, more sources of political information, including television broadcast news and political adverting, can be included. Second, the conceptualization of "center" can be further investigated.

The present study includes mainly the print media for three reasons. First, the full text of newspaper and magazine articles was easier to obtain. Second, the print media are more likely to report candidates' issue stance in details than TV news shows. Third, the transcripts of TV newscast are mostly summaries rather than verbatim records. Researchers interested in the median might want to tape the news shows for analysis.

As for the definition of the center, this study treats the mean scores of issue stands (measured by a 5- or 7-point scale) as the center. Only both ends of a scale were defined by examples or statements (see **Appendix**). Survey respondents have to self-report their positions on the scale. For most issues, the center (mean) is close to the center of the scale (See **Table 1**).

The NES study has been conducted for decades, thus the validity and reliability of the scales should be of little question. However, an improved way to measure the ideological center should be an interesting challenge for future research.

Table 1

Partisans' and population's means on issues

	Dem.	Population	Rep.	Scale
Ideological label	3.72	4.45	5.22	7-point
Women's status	2.34	2.45	2.59	7
Defense spending	3.36	3.69	4.22	7
Job/standard of living	3.74	4.36	5.09	7
Aid to Blacks	4.18	4.72	5.25	7
Service vs. spending	3.79	4.29	4.94	7
Health insurance	3.29	4.02	5.08	7
Preferential hiring	3.95	4.27	4.59	5
Death penalty	3.74	4.08	4.37	5

Table 2

Correlations between ideological label and issue stands

	Ideology
Women	.2577 (N=1343) p= .000
Defense	.3112 (N=1353) p= .000
Job	.3124 (N=1353) p= .000
Blacks	.3194 (N=1343) p= .000
Service	.3715 (N=1315) p= .000
Insurance	.3794 (N=1347) p= .000
Hiring	.1993 (N=1342) p= .000
Death	.2395 (N=1358) p= .000

Reliability Coefficients 9 items (Ideology and 8 issues)
Alpha = .7550 Standardized item alpha = .7544

Table 3

Partisan differences on issues

	Dem. (mean) (std. dev.) (N)	Rep. (mean) (std. dev.) (N)	t-value	p.
Ideological label	3.72	5.22	18.85	.000
	(1.31)	(1.09)		
	(453)	(475)		
Women's status	2.34	2.59	2.28	.023
	(2.34)	(2.59)		
	(555)	(509)		
Defense spending	3.36	4.22	10.20	.000
	(1.46)	(1.27)		
	(549)	(519)		
Job/std of living	3.74	5.09	13.18	.000
	(1.77)	(1.57)		
	(559)	(520)		
Aid to Blacks	4.18	5.25	10.91	.000
	(1.79)	(1.40)		
	(555)	(523)		
Service /spending	3.79	4.94	12.33	.000
	(1.51)	(1.47)		
	(512)	(508)		
Health insurance	3.29	5.08	16.11	.000
	(1.89)	(1.72)		
	(545)	(517)		
Prefer. hiring	3.95	4.59	8.85	.000
	(1.42)	(.87)		
	(577)	(523)		
Death penalty	3.74	4.37	7.67	.000
	(1.55)	(1.10)		
	(588)	(527)		

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Appendix
NES Issue Questions

Equal role for women
Recently there has been a lot of talk about women's rights. Some people feel that women should have an equal role with men in running business industry, and government. Suppose these people are at one end of a scale, at point 1. Others feel that a woman's place is in the home. Suppose these people are at the other end, at point 7. And, of course, some other people have opinions somewhere in between at points 2, 3, 4, 5, or 6. Where would you place yourself on this scale, or haven't you thought much about this? <"Don't know," "N/A" or "Haven't thought much" were counted as missing in the present study.>

1. Women and men should have an equal role
7. A women's place is in the home

Defense Spending
Q: Some people believe that we should spend much less money for defense. Others feel that defense spending should be greatly increased.

1. Greatly decrease defense spending
7. Greatly increase defense spending

Job/Standard and Living
Q: Some people feel the government in Washington should see to it that every person has a job and a good standard of living. Others think the government should just let each person get ahead on their own.

1. Government see to a job and good standard of living
7. Government let each person get ahead on own

Aid to Blacks
Q: Some people feel that the government in Washington should make every effort to improve the social and economic positions of blacks. Others feel that the government should not make any special effort to help blacks because they should help themselves.

1. Government should help blacks.
7. Blacks should help themselves.

Services/Spending
Q: Some people think the government should provide fewer services, even in areas such as health and education in order to reduce spending. Other people feel it is important for the government to provide many more services even if it means an increase in spending.

1. Govt. should provide many fewer services, reduce spending a lot
7. Govt. should provide many more services; increase spending a lot

<The present study reversed the direction of the original scale in order to fit the left-right/liberal-conservative arrangement.>

Federal Health Insurance

Q: There is much concern about the rapid rise in medical and hospital costs. Some people feel there should be a government insurance plan which would cover all medical and hospital expenses for everyone. Others feel that all medical expenses should be paid by individuals, and through private insurance plans like Blue Cross or other company paid plans.

1. Government insurance plan
7. Private insurance plan.

Degree of Favor/Opposition to Preferential Hiring of Blacks

Some people say that because of past discrimination, blacks should be given preference in hiring and promotion. Others say that such preference in hiring and promotion of blacks is wrong because it gives blacks advantages they haven't earned. What about your opinion-- are you for or against preferential hiring and promotion of blacks? (5-point scale)

1. For
5. Against

Strength of Favor/Opposition to the Death Penalty

Do you favor the death penalty for persons convicted of murder strongly or not strongly? Do you oppose the death penalty for persons convicted of murder strongly or not strongly? (5-point scale)

1. Strongly favor
3. Depends
5. Strongly oppose

<The present study reversed the direction of the original scale in order to fit the left-right/liberal-conservative arrangement.>

A Limbo of Ambiguity:
The Editorial Rights of State-Owned Licensees

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A Limbo of Ambiguity: The Editorial Rights of State-Owned Licensees

I. Introduction

Congress and the Federal Communications Commission have traditionally supported the concept that public television and radio stations operated by state and local governments have the same range of responsibilities and freedoms as any private station.[1] However, the Courts have disagreed about the first amendment status of state-owned stations and their ability to act as editors and programmers.[2] This ambiguity and lack of precedence in the Courts has made it difficult for public state-owned stations to make editorial decisions, creating a chilling effect.[3] The opportunity now exists for that ambiguity to be resolved. The U.S. Supreme Court has accepted an appeal from a 1996 ruling by the United States Court of Appeals for the Eighth Circuit, in St. Louis. In that case, *Forbes v. Arkansas Educational Television Network* (AETN), the Eighth Circuit ruled that the Arkansas Educational Television Network violated a legally qualified candidate's first amendment right to access when he was excluded from a broadcast debate sponsored by AETN.[4]

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[1] Greenhouse, Linda. "Justices to Ponder Rights of Government-Run TV." *The New York Times*, 18 March 1997. p. A14, col. 1. See also *FCC v. League of Women Voters*, 468 U.S. 364, 367 (1984).

[2] *Columbia Broadcasting System, Inc. v. Democratic National Committee, 412 U.S. 94, 149-150 (1973). McGlynn v. New Jersey Pub. Broadcasting Auth.*, 88 N.J. 112; 439 A.2d 54, 50 Rad. Reg. 2d (P&F) 867, 27 A.L.R. 4th 322, 7 Media L. Rep. 2446, (N.J. 1981); *Muir v. Alabama Educational Television Commission*, 688 F2d 1033, 1040 (5th Cir. 1982), *cert denied*, 460 U.S. 1023 (1983); *DeYoung v. Patten*, 898 F.2d 628 (8th Cir. 1990). *Chandler v. Georgia Public Telecommunications Comm'n*, 917 F.2d 486, 492 n. 4 (11th Cir. 1990) *cert. denied*, 112 S.Ct. 71, 116 L.Ed.2d 45 (D. N. J. 1991). *Arons v. Donovan* (No. 93-4468(JCL)) 882 F. Supp. 379; 1995 U.S. Dist. Lexis 5406. *Marcus v. Iowa Public Television*, 97 F. 3d 1137; 1996 U.S. App. LEXIS 26771 (8th Cir. 1996).

[3] "Notebook," *Television Digest*. 24 March 1997. No. 6, Vol. 19. See also *Marcus v. Iowa Public Television*, 97 F. 3d 1137; 1996 U.S. App. LEXIS 26771 (8th Cir. 1996).

[4] *Forbes v. AETN*, 22 F.3d 1423, 1426 (8th Cir. 1994).

The issues in this case are of interest to all state-owned public broadcasting stations and have come before the courts in the past.[5] They are of interest because they go to the heart of a broadcaster's ability to make editorial and programming decisions. In the past, the Courts held that all licensees, both commercial and noncommercial licensees, including state-owned licensees, had the right to make editorial decisions, even those that might restrict a candidate's access to a debate.[6] The *Forbes* ruling set state-owned licensees apart from other licensees by holding that AETN, by sponsoring a broadcast of a political debate had created a limited public forum.[7] The court held that AETN's employees, as state employees, and thus state actors could not restrict a legally qualified candidate's right of access to the forum except in the case of a compelling governmental interest, a point of law that AETN did not satisfy in this case.

A split now exists between the U.S. Court of Appeals Eighth Circuit and the Eleventh Circuit regarding the rights of a candidate to have access to a broadcast debate at a state-owned licensee. In addition, a split exists between the Eighth Circuit, the old Fifth Circuit U.S. Court of Appeals and the New Jersey State Courts in their application of public forum doctrine to state-owned stations in other related public broadcasting cases.[8] The conflicts between the cases leave the state-owned public broadcaster in an ambiguous position, with no clear ruling as to their rights and abilities to make editorial and programming decisions.

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[5] *McGlynn v. New Jersey Pub. Broadcasting Auth.*, 88 N.J. 112; 439 A.2d 54, 50 Rad. Reg. 2d (P&F) 867, 27 A.L.R. 4th 322, 7 Media L. Rep. 2446, (N.J. 1981); *Muir v. Alabama Educational Television Commission*, 688 F2d 1033, 1040 (5th Cir. 1982), *cert denied*, 460 U.S. 1023 (1983); *DeYoung v. Patten*, 898 F.2d 628 (8th Cir. 1990). *Chandler v. Georgia Public Telecommunications Comm'n*, 917 F.2d 486, 492 n. 4 (11th Cir. 1990) *cert. denied*, 112 S.Ct. 71, 116 L.Ed.2d 45 (D. N. J. 1991). *Arons v. Donovan* (No. 93-4468(JCL)) 882 F. Supp. 379; 1995 U.S. Dist. Lexis 5406. *Marcus v. Iowa Public Television*, 97 F. 3d 1137; 1996 U.S. App. LEXIS 26771 (8th Cir. 1996).

[6] *FCC v. League of Women Voters*, 468 U.S. 364, 367 (1984).

[7] A limited public forum is a forum "created by government designation of a place or channel of communication for use by the public at large for assembly and speech, for use by certain speakers, or for the discussion of certain subjects." *Cornelius v. NAACP Legal Defense & Educational Fund*, 473 U.S. 788, 801 (1985).

This paper seeks to examine the application of public forum doctrine by the courts to cases where a political candidate has been denied access to a debate or a news/public affairs program. It will also examine cases where private citizens sought to force state-owned public television stations to broadcast controversial programs. The purpose of this examination is to determine how the courts apply public forum doctrine to the related aspects of each case and to examine how these rulings affect the state-owned licensee's ability to make editorial and programming decisions. To answer those questions, this paper will examine the broadcaster's rights and responsibilities, public forum doctrine, the broadcaster's mandate to act "in the public interest," and the state-owned public broadcasting cases.

II. The Rights and Responsibilities of the Broadcaster

To bring order to the airwaves in the early years of radio broadcasting, Congress enacted the Radio Act of 1927, which established the Federal Radio Commission (FRC), to allocate frequencies among competing applicants in a manner responsive to the public "convenience, interest, or necessity."[9] Broadcasters were required to make programming and editorial decisions that were "in the public interest." Congress sought to protect licensees by including a provision in the 1927 Act that gave radio first amendment status so that the Commission and the government could not censor radio communications.[10] Essentially, the Act stated that the first amendment prevented the government from any acts of censorship or prior restraint that would interfere with a broadcaster's right of expression. The Act placed limits on some forms of speech such as obscenity.[11] In addition, Congress did not want a "common carrier" right of access for all persons who sought to speak on public issues.[12] In *CBS v. Democratic National Committee*, the Supreme Court noted that in creating the Radio Act of 1927, "Congress chose to leave broad journalistic discretion with the licensees."[13] "Congress specifically dealt with and firmly rejected the argument that the broadcast facilities should be open on a nonselective basis to all persons wishing to talk about public issues."[14] Congress continued these protections of broadcast licensees in the successor to the Radio Act of 1927, the Communications Act of 1934.[15]

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[8] *McGlynn v. New Jersey Pub. Broadcasting Auth.*, 88 N.J..112; 439 A.2d 54, 50 Rad. Reg. 2d (P&F) 867, 27 A.L.R. 4th 322, 7 Media L. Rep. 2446, (N.J. 1981); *Muir v. Alabama Educational Television Commission*, 688 F2d 1033, 1040 (5th Cir. 1982), *cert denied*, 460 U.S. 1023 (1983); *DeYoung v. Patten*, 898 F.2d 628 (8th Cir. 1990). *Chandler v. Georgia Public Telecommunications Comm'n*, 917 F.2d 486, 492 n. 4 (11th Cir. 1990) *cert. denied*, 112 S.Ct. 71, 116 L.Ed.2d 45 (D. N. J. 1991). *Arons v. Donovan* (No. 93-4468(JCL)) 882 F. Supp. 379; 1995 U.S. Dist. Lexis 5406. *Marcus v. Iowa Public Television*, 97 F. 3d 1137; 1996 U.S. App. LEXIS 26771 (8th Cir. 1996).

[9] Judge Henry Friendly, in The Federal Administrative Agencies 54-55 (1962), comments on the standard: "The only guideline supplied by Congress in the Communications Act of 1934 was 'public convenience, interest, or necessity.' The standard of public convenience and necessity introduced into the federal statute book by Transportation Act, 1920, conveyed a fair degree of meaning when the issue was whether new or duplicating railroad construction should be authorized or an existing line abandoned. It was to convey less when, as under the Motor Carrier Act of 1935, or the Civil Aeronautics Act of 1938, there would be the added issue of selecting the applicant to render a service found to be

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needed; but under those statutes there would usually be some demonstrable factors, such as , in air route cases, ability to render superior one-plane or one-carrier service because of junction of the new route with existing ones, lower costs due to other operations, or historical connection with the traffic, that ought to have enabled the agency to develop intelligible criteria for selection. The standard was almost drained of meaning under section 307 of the Communications Act, where the issue was almost never the need for broadcasting service but rather who should render it." See Mark A. Franklin, *Cases and Materials on Mass Media Law* 718 (1987). Radio Act of 1927 Section 4, 44 Stat. 1163. Later known as Section 315 under Communications Act of 1934.

[10] Radio Act of 1927 Section 4, 44 Stat. 1163.

[11] F. Leslie Smith, Milan D. Meeske, John W. Wright, II. *Electronic Media and Government: The Regulation of Wireless and Wired Mass Communication in the United States* 37-43(1995).

[12] *Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. 94, 110. A common carrier is compelled to accept anything and everything that is offered as long as the programmer can pay the fee.

[13] 412 U.S. at 105, 93 S. Ct. at 2087.

[14] 412 U.S. at 105, 93 S.Ct. at 2087.

[15] 47 U.S.C. Sec. 151 et seq.

The Communications Act of 1934 continued the mandate of the 1927 Act that all broadcast station licensees must operate in the public interest.[16] The Act required that the Federal Communications Commission (FCC) consider the public interest in the course of granting licenses, renewing licenses or modifying them. The FCC required broadcasters to protect the public interest when making editorial and programming decisions.[17] Because of the first amendment, the Supreme Court has supported the mandate that broadcast licensees possess largely unrestricted discretion to make programming decisions, which the licensee believes is in the public interest.[18] Justice Frankfurter of the Supreme Court, in *NBC v. United States*, stated that "the 'public interest' to be served under the Communications Act is the interest of the listening public in the 'larger and more effective use of radio." He went on to say that due to spectrum scarcity, wasteful use of radio would lead to the detriment of the public interest.[19]

Congress gave first amendment status to broadcasters and the Courts upheld that status, proving that Congress and the Courts intend for the broadcasters to act as gatekeepers with editorial control over the programming of a station. The broadcaster is required to make informed judgments as to what programming will serve the public interest. This ability to make editorial decisions is what makes it possible for the broadcaster to act in the public interest.

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[16] The key phrases "public interest, convenience and necessity" and "public interest", convenience or necessity" were suggested by a young lawyer who had been loaned to the Senate by the Interstate Commerce Commission, because they were used in other federal statutes. See N. Minow, Equal Time 8-9(1964). These phrases came from earlier utility statutes. See Mark A. Franklin, *Cases and Materials on Mass Media Law* 718 (1987).

[17] 47 U.S.C. Sec. 151 et seq.

[18] "The intention of Congress [in enacting the Communications Act was] to maintain a substantial measure of journalistic independence for the broadcast licensee. See *Columbia Broadcasting System, Inc. v. Democratic National Committee.*, 412 U.S. 94, 116 (1973).

[19] *NBC v. United States*, 319 U.S. 216 (1943).

III. The Public Broadcaster's Rights, Responsibilities and Governmental Buffers

Under the Communications Act and court cases decided prior to *Forbes v. AETN* in 1994, public broadcasters, both state-owned and private entities, were subject to the same licensing and regulatory requirements as commercial stations and possessed the same editorial discretion over programming decisions as commercial broadcasters.[20] In general, noncommercial broadcast licensees were "subjected to the same regulatory requirements as their commercial counterparts."[21] The old Fifth Circuit, U.S. Court of Appeals in *Muir v. Alabama Educational Television Commission,* noted that the provision of financial assistance to public broadcasting stations through the Public Broadcasting Act of 1967[22] showed a "Congressional desire that public broadcast licensees retain independent programming responsibility."[23] When Congress created the Corporation for Public Broadcasting (CPB) in 1967,[24] it followed the recommendation of the Carnegie Foundation[25] that CPB should act as a buffer between the legislative body (Congress) and the public broadcaster, in order to isolate the broadcaster from undue political influence.[26] The purpose of having a buffer was to protect the editorial decision making process at the licensee level.[27]

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[20] *FCC v. League of Women Voters,* 468 U.S. 364, 367 (1984).

[21] *Muir v. Alabama Educational Television Commission,* 688 F2d 1033, 1040 (5th Cir. 1982), *cert denied,* 460 U.S. 1023 (1983).

[22] Pub. L. No. 90-129, 81 Stat. 365 (1967).

[23] *Muir v. Alabama Educational Television Commission,* 688 F2d 1033, 1040 (5th Cir. 1982), *cert denied,* 460 U.S. 1023 (1983).

[24] Public Broadcasting Act of 1967, Pub. L. No. 90-129, Sec 210, 81 Stat. 365 (1967).

[25] The Carnegie Commission on the Future of Public Television. (1967) *Public Television: A Program for Action* (p. 37). New York: Harper & Row.

[26] The Carnegie Commission's report stated that a nongovernmental institution was necessary for the reception and disbursement of funds. The purpose was to minimize the likelihood that political leaders would direct scrutiny toward the day-to-day operations of the sensitive program portions of the public television system. The Commission sought to design an organization that could represent public television without political influence. See The Carnegie Commission on the Future of Public Television. (1967) *Public Television: A Program for Action* (p. 37). New York: Harper & Row.

At the state level and local level, noncommercial stations owned by a government entity are governed by a board of directors. One purpose of the board is to act as a buffer, isolating the station from the government, protecting the licensee from undue state and local political influence or interference in the program decision-making process.[28] This type of organization helps licensees meet the FCC requirement that they maintain editorial and programming control over their stations at the local level.[29] The buffers protect the station's ability to make editorial judgments in the public interest. In addition, the isolation of the employees of the state-owned stations from governmental influence may dilute their role as state actors.

Finally, a number of state-owned licensees have incorporated the guidelines of the Editorial Integrity Project in their organizational plan. The guidelines, titled the *Public Broadcasting and Management Handbook* (1986), were designed to aid the station in establishing editorial integrity when making programming and organizational decisions. The guidelines address the problems of state influence on editorial decisions and suggests techniques for separating the station from the state.[30]

Both the noncommercial and commercial broadcast licensees have a statutory obligation to make editorial and programming decisions that will best serve the public interest. However, in *Muir v. AETC,* the U.S. Court of Appeals, old Fifth Circuit held that state licensees did not have first amendment rights. According to *Muir*, the sensitive constitutional concerns arising from state entities having editorial control over the message and the medium is resolved by a system in which the first amendment rights of public television viewers is protected by the requirement that the broadcast licensee serve the public interest."[31] In *Muir*, the Court states that the first amendment rights of the governmental entity, the state-owned licensee, is limited to those actions which do not violate an individual's constitutional rights. In the absence of a violation of an individual's constitutional right. . ., [state-entity licensees] are free to make whatever programming decisions they choose, consistent with statutory and regulatory requirements."[32]

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[27] The Carnegie Commission on the Future of Public Television. (1967) *Public Television: A Program for Action* (p. 37). New York: Harper & Row. The Editorial Integrity Project, *Public Broadcasting Governance and Management Handbook.* (1986)

[28] The Editorial Integrity Project, *Public Broadcasting Governance and Management Handbook.* (1986)

[29] The Editorial Integrity Project, *Public Broadcasting Governance and Management Handbook.* (1986)

The ability of public broadcasters to determine which candidates will appear in a debate actually preserves first amendment values by not discouraging broadcasters from programming programs on controversial topics.[33]

IV. The Access Rights of Legally Qualified Political Candidates

Under Section 315 of the 1934 Communications Act, legally qualified candidates have equal opportunity for access to broadcasting stations or cable systems. Once a station or cable system allows a legally qualified candidate to use its facilities, it must allow equal opportunity (commonly and incorrectly called "equal time") for all other legally qualified candidates for that office.[34] There are five exemptions from the equal opportunities provision of Section 315. They include: Bona fide newscasts; Bona fide news interviews; Bona fide news documentaries; On-

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[30] Id.

[31] *Muir v. Alabama Educational Television Commission*, 688 F2d 1033, 1040 (5th Cir. 1982), *cert denied*, 460 U.S. 1041 (1983).

[32] Id at 1038 (1983).

[33] Erick Howard, *Debating PBS: Public Broadcasting and the Power to Exclude Political Candidates from Televised Debates*, 435 Chicago Legal Forum 436 (1995)

the-spot coverage of bona fide news events; and debates and news conferences. If a station broadcasts information about a candidate during one of the five exemptions, then equal opportunity rules do not apply.[35] In the cases examined in this paper, several political candidates based their suits against state-owned licensees on violations of Section 315, however none of the Courts found that a state-owned licensee had violated the equal opportunity requirements.

Political speech has the greatest protection under the first amendment because the Supreme Court has held that discussion of public issues and the qualifications of candidates who are running for office are essential and part of the people's ability to govern themselves.[36] The Court said that the Constitution gives the "broadest protection to such political expression,"[37] and that political expression needs to be "uninhibited, robust, and wide-open."[38] The rights of the broadcaster to make editorial and programming decisions receives less protection than the right of the public to receive information, while political speech receives the highest protection from prior restraint.[39] In addition, broadcasters cannot limit access based on political or viewpoint based opinions. Justice Blackmun said in *Board of Education v. Pico* that, "our precedents command the conclusion that the State may not act to deny access to an idea simply because state officials disapprove of the idea for partisan or political reasons.[40]

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[34] 47 U.S.C. Sec. 315.

[35] F. Leslie Smith, Milan D. Meeske, John W. Wright, II. *Electronic Media and Government: The Regulation of Wireless and Wired Mass Communication in the United States* 332-342 (1995).

[36] Buckley v. Valeo, 424 U.S. 1, 14-15 (1976).

[37] Id.

[38] *New York Times Co. v. Sullivan*, 376 U.S. 254, 270(1964).

[39] Ronald Dworkin, *Taking Rights Serious 93 (1977)* as cited in: Bill Chamberlin and Kent R. Middleton. *The Law of Public Communication*. 44 3rd Ed. 1994.

[40] 457 U.S. 853, 879 (1982). See also *Anderson v. Celebrezze*, 460 U.S. 780, 798 (1983).

V. Public Forum Doctrine

According to the Supreme Court, there are three types of fora: the traditional public forum, the public forum created by government designation, known as a limited public forum, and the nonpublic forum. Traditional public fora[41] are those places which "by long tradition or by government fiat have been devoted to assembly and debate."[42] Public streets and parks fall into this category.[43] A limited public forum[44] is a place that generally is not open for public expression. It is created when the government designates the forum as a place or channel of communication for use by the public at large for assembly and speech, for use by certain speakers, or for the discussion of certain subjects.[45] The government has to actively create a limited public forum by opening a nontraditional forum for public discourse.[46] A nonpublic forum[47] like a military base, is generally not open to the public, but the government does allow free expression to occur under some circumstances.[48]

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[41] "In these quintessential public forums, the government may not prohibit all communicative activity. For the State to enforce a content-based exclusion it must show that its regulation is necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end." See *Carey v. Brown,* 447 U.S. 455, 461 (1980).

[42] *Perry Education Assn.* 460 U.S., at 45.

[43] "Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights, and liberties of citizens. The privilege of a citizen of the United States to use the streets and parks for communication of views on national questions may be regulated in the interest of all; it is not absolute, but relative, and must be exercised in subordination to the general comfort and convenience, and in consonance with peace and good order; but it must not, in the guise of regulation, be abridged or denied." - Mr. Justice Roberts in *Hague v. CIO,* 307 U.S. 496, 515-516.(1939)

[44] "A second category consists of public property which the State has opened for use by the public as a place for expressive activity. The Constitution forbids a State to enforce certain exclusions from a forum generally open to the public even if it was not required to create the forum in the first place. See *Widmar v. Vincent, 454 U.S. 263 (1981)* (university meeting facilities); *City of Madison Joint School District v. Wisconsin Employment Relations Comm'n,* 429 U.S. 167 (1976) (school board meeting); *Southeastern Promotions, Ltd, v. Conrad,* 420 U.S. 546 (1975) (municipal theater) "A public forum may be created for a limited purpose such as use by certain groups, e.g., *Widmar v. Vincent* (student groups), or for the discussion of certain subjects, *e.g., City of Madison Joint School District v. Wisconsin Public Employment Relations Comm'n* (school board business)." "Although a State is not required to indefinitely retain the open character of the facility, as long as it does so it is bound by the same standards as apply in a traditional public forum. Reasonable time, place, and manner regulations are permissible, and a content-based prohibition must be narrowly drawn to effectuate a compelling state interest. See *Widmar v. Vincent, supra, at 269-270."*

[45] *Perry Education Assn.,* 460 U.S. at 45 and 46, n. 7.

The Supreme Court has traditionally looked to the policy and practice of the government to determine if it intended to designate a place not traditionally open to assembly and debate as a public forum.[49] The Court has also examined the nature of the property and its compatibility with expressive activity to discern the government's intent.

Prior to the Forbes' decision, the designation did not affect the ability of the broadcaster to determine who could participate in the debate. The Supreme Court has stated that: "Not every instrumentality used for communication, . . . is a traditional public forum or a public forum by designation.[50] "[T]he first amendment does not guarantee access to property simply because it is owned or controlled by the government."[51]

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[46] *Perry Education Assn.*, 460 U.S. at 46.

[47] "Public property which is not by tradition or designation a forum for public communication is governed by different standard. We have recognized that the "first Amendment does not guarantee access to property simply because it is owned or controlled by the government." See *United States Postal Service v. Council of Greenburgh Civic Assns., supra,* at 129. In addition to time, place, and manner regulations, the state may reserve the forum for its intended purposes, communicative or otherwise, as long as the regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker's view. See 453 U.S., at 131, n. 7. As we have stated on several occasions, "'"[t]he State, no less than a private owner of property, has power to preserve the property under its control for the use to which it is lawfully dedicated."'" *Id.*, at 129-130, quoting *Greer v. Spock,* 424 U.S. 828, 836 (1976), in turn quoting *Adderley v. Florida,* 385 U.S. 39, 47 (1966). "With respect to public property that is not by tradition or government designation a forum for public communication, a State may reserve the use of the property for its intended purposes, communicative or otherwise, as long as a regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker's view." See *Perry Education Association v. Perry Local Educators' Assoc. et al.*, 460 U.S. 37.

[48] Bill Chamberlin and Kent R. Middleton. *The Law of Public Communication.* 48 3rd Ed. 1994.

[49] *Perry Education Assn.*, 460 U.S. at 46.

[50] *United States Postal Service v. Council of Greenburgh Civic Assns.*, 453 U.S. 114, 130, n.6 (1981).

[51] *Id.*, at 129.

In cases where expressive activity could disrupt the principal function of the property, the Court is particularly reluctant to hold that the government intended to designate a public forum. Accordingly, The Court has held that some government properties are not public forums including military reservations[52] and jail house grounds.[53] From these statements, it appears that the Supreme Court would not automatically give absolute rights of access to legally qualified candidates. Especially if access would conflict with the licensees' editorial ability to act in the public interest or if the inclusion of fringe candidates would disrupt the normal programming schedule at a television or radio station owned by the state. There appears to be strong support for the rights of the station as a government entity to make some decisions that might infringe on an individual's first amendment rights of access as long as the station is acting in the public interest.

In other prior non broadcasting decisions, the Court held that the public's right to speak on public property is not absolute. "The main consideration is that the activity not interfere with the primary purposes of the building or facility in question."[54] "Some other areas that are "public" in some senses are not public forums for expressive activities, such as jails, military bases and the reading room of the Library of Congress."[55] The Court has appeared to support the idea that first amendment rights are not absolute under certain circumstances and with proper justification and the with the proper balancing of rights a state broadcasting entity could make editorial decisions that might limit access for some political candidates.

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[52] *Greer v Spock*, 424 U. S. 828 (1976)

[53] *Adderley v. Florida*, 385 U.S. 39 (1966) See also *Cornelius v. NAACP Legal Defense & Educational Fund*, 473 U.S. 788, 802-804 (1985).

[54] T. Barton Carter et al., *The First Amendment and the Fourth Estate* 78 (6th ed. 1994).

[55] T. Barton Carter et al., *The First Amendment and the Fourth Estate* 78 (6th ed. 1994).

VI. Related Public Broadcasting Cases

Muir v. Alabama Educational Television Commission

Muir v. Alabama Educational Television Commission[56] is the best known of the public broadcasting cases involving a state-owned licensee and a challenge to its ability to make editorial decisions. The case differs from *Forbes* and the other related cases because private citizens challenged the right of state-owned licensees to make programming decisions that might conflict with the first amendment rights of the viewer. In contrast, the other cases were brought by political candidates who were denied access to a debate. When it was heard on appeal by the old Fifth Circuit, U.S. Court of Appeals, the Court consolidated it with *Barnstone v. University of Houston,*[57] a case that also involved a decision to not air "Death of a Princess." In a rehearing, the two cases were heard *en banc,* because the holding in *Muir* contradicted the holding in *Barnstone.* In each case, the stations decided to not air a controversial program that was previously scheduled[58] and citizens filed suit to force the stations to air the program.

The Alabama Educational Television Commission (AETC) chose to not broadcast "Death of a Princess"[59] on May 12, 1980 though it was scheduled to air that evening. The announcement, that the program would not air on the 12th, was released on May 10, 1980. The documentary told the story of the July 1977 execution of a Saudi Arabian princess and her lover. It was considered to be a controversial program and numerous viewers contacted the Commission, asking that the program not air due to concerns for the safety of Americans in the Middle East.[60]

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[56] 688 F.2d 1033 (1982).

[57] 688 F.2d 1033 (1982).

[58] Because of content concerns, the Alabama Educational Television Commission delayed the broadcast one day so that the full board could meet to consider the issue. The suit was filed before the program aired on May 13, 1980, just 24 hours after the scheduled air time.

[59] "Death of a Princess" was one program in a series of thirteen programs called "World." It was produced by the WGBH Educational Foundation, WGBH-TV in Boston, Massachusetts and ATV Network of London England. as cited in *Muir*.

The Appellants, Donald E. Muir, Jeff Buttram and O. Navarro Faircloth, filed suit on the day the program was scheduled to air, alleging violation of their first amendment and fourteenth amendment rights. They sought to have the program aired and to have "preliminary and permanent injunctions against the AETC making 'political' decisions" about programming.[61]

The AETC was a state instrumentality[62] that operated a statewide network of nine TV stations that were licensed by the FCC as noncommercial, educational stations. AETC funding was provided by the Alabama state legislature, the Corporation for Public Broadcasting and private contributions. As a member of the Public Broadcasting Service's (PBS) Station Program Cooperative (SPC), AETC could choose to air or not to air a PBS program. This agreement, between the stations and the SPC, was in accord with FCC requirements that its licensees exercise exclusive control over selection of broadcast programming.[63]

The Court held that AETC's decision to not broadcast "Death of a Princess" did not violate the Appellants' constitutional rights under the first and fourteenth and stated that the "first amendment rights of viewers does not impose limits on the programming discretion of public television stations licensed to state instrumentalities."[64]

The court reasoned that state licensees had the same rights and responsibilities to make programming decisions as privately owned stations. However, the court found that as state instrumentalities, they had no protection under the first amendment. Yet, this did not give the public a greater right to influence the programming discretion of the public licensees, according to the court.[65] Without an allegation and proof that a state-operated station was acting as a propaganda arm of the government, the state was not shown to be engaging in censorship.

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[60] *Muir v. Alabama Ed. Television Com'n.*, 688 F.2d 1033 (1982).

[61] Id.

[62] AETC is organized under Alabama Code Section 16-7-1. Under the code, AETC has "the duty of controlling and supervising the use of channels reserved by the Federal Communications Commission to Alabama for non-commercial educational use." See *Muir v. Alabama Ed. Television Com'n.*, 688 F.2d 1033 (1982).

[63] *Muir v. Alabama Ed. Television Com'n.*, 688 F.2d 1033 (1982).

[64] Id.

Next, the Court found that the AETC and KUHT-TV were not public forums. The Court supported this holding by noting that a facility was a public forum if it provided a general public right of access to its use and if such access was not incompatible with the facility's primary activity.[66] They noted that public television stations were statutorily mandated to exercise sole programming authority with no invitation extended to the public. The role of the public was to watch programming or to decline to watch programming. In *CBS v DNC*, the Supreme Court noted that a public right of access to television stations would result in the derogation of the licensees' duty to insure that their stations serve the public interest.[67] The Court of Appeals held that the speakers in this case did not have a right of access to the forum and thus, it was not a public forum. The right of public access was the essential characteristic of a public forum. Thus the Court of Appeals found that there were no grounds for a challenge under the public forum doctrine.[68]

The court found no merit to the contention that the state public television commission's decision not to telecast a politically sensitive program previously scheduled for broadcast was based solely on political considerations, and was therefore a prohibited act of political censorship in violation of the first amendment. To deny the AETC the ability to make

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[65] Id. at 1041.

[66] Greer v. Spock, 424 U.S. 828, 836 as cited in Muir at 1042.

[67] CBS, 412 U.S. at 124 as cited in Muir at 1042.

[68] *Muir v. Alabama Ed. Television Com'n.*, 688 F.2d 1033 (1982).

"political" programming decisions would vacate the statutory obligation of the broadcaster to cover political events. This would also involve "unacceptable and undesirable" judicial intrusion into the political process.

Finally, the Federal Communications Commission was found to be the appropriate forum for a complaint of impermissible censorship by public broadcasting authorities. The court stated there was is no reason for first instance complaints to be heard before the federal courts.[69]

Of interest is the Court's holding that public forum doctrine does not apply to state-owned broadcast stations unless the government has created a public forum dedicated to public use. In *Forbes*, the court held that the debate, as a program, was a limited public forum. In *Muir*, the judge was looking at the public trying to force the network/station to carry a program. The court declared the station to not be a public forum. In Muir, the decision states, "Nothing of record indicates that AETC must be considered a public forum to which appellants have a constitutional right of access or in which appellants have a constitutional right to compel the broadcast of "Death of a Princess." That the government "owns" or financially supports a speech medium does not alone create a public right of access to that medium, much less a public right to force that medium to present a particular film.[70] It is only when the government has created a public forum dedicated to public use that a right of access may obtain. The Supreme Court has recognized that "the nature of the forum and the conflicting interests involved have remained important in determining the degree of protection afforded by the amendment to the speech in question."[71]

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[69] Id.

[70] Avins v. Rutgers, State University of New Jersey, 385 F.2d 151 (3rd Cir. 1967), cert. denied, 390 US 920, 88 S. Ct. 855, 19 L.Ed. 2d 982 (1968), and Advocates for the Arts v. Thomson, 532 F.2d 792 (1st Cir. 1976), cert. denied, 429 US 894 , 97 S. Ct. 254, 50 L. Ed. 2d 177 (1976).

McGlynn v. New Jersey Public Broadcasting Authority

The State of New Jersey instituted laws that regulated the New Jersey Public Broadcasting Authority in addition to the Federal statutes and Constitutional laws that regulated all licensees. In *Arons v. Donovan*, questions of state law are considered but are not placed on a par with federal law. The arguments in *McGlynn v. New Jersey Public Broadcasting Authority* focus on questions of state law while virtually not considering that federal law and constitutional law might apply. The question of public fora doctrine is discussed and the dissent brings out points that are found in the other cases discussed in this paper.

Richard McGlynn and Jack Rafferty, were among eight candidates for the Republican nomination for the Governor of New Jersey. The New Jersey Public Broadcasting Authority[72] refused to include them in a forum on five important issues to be broadcast on a program called "A Closer Look" during the final week of the 1981 primary campaign. McGlynn filed suit alleging that his exclusion violated New Jersey state law,[73] 47 U.S.C. @315 and the first and fourteenth amendments to the United States Constitution. After the primary election, the Superior Court of New Jersey, Appellate Division, granted the Authority's petition for rehearing because the public interest would be served by a clarification of their earlier summary ruling.[74]

McGlynn's complaint regarding the Authority centered on its coverage of campaign issues and candidates. As part of its coverage, the Authority aired a series of ten-minute profiles in which each candidate discussed

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[71] Lehman v. Shaker Heights, 418 US 298, 302, 94 s. Ct. 2714, 41 L. Ed. 2d 770 (1974).

[72] New Jersey Public Broadcasting Authority is an instrumentality of the State of New Jersey. It owned and operated four educational television stations which made up the New Jersey public television network. The four stations were WNJS, WNJM, WNJB and WNJT and were licensed by the FCC.

[73] N.J.S.A. 19:44A-39 (Section 14 of the 1974 "Act to amend and supplement 'The New Jersey Campaign Contributions and Expenditures Reporting Act'"), N.J.S.A. 48:23-7(h) (Section 7 of the "New Jersey Public Broadcasting Authority Act").

the issues. Each profile was aired twice during the month of May. A weekly interview program invited all candidates to participate in interviews that were broadcast from March 5 to May 21. The Authority also covered two League of Women Voters forums, one for each party, which included all candidates. The various candidates were also included in the evening news program. Just prior to the election, the news staff used its editorial judgment to select pretaped segments for broadcast that featured each of the candidates, eliminating the candidates that appeared to have the least following. Ten of the twenty-one candidates were selected for inclusion. McGlynn (later joined by Rafferty) filed a complaint in the Superior Court, Chancery Division, alleging that his rights under the Federal Communications Act, the New Jersey Campaign Expenditure and Reporting Act, the New Jersey Public Broadcasting Authority Act and the first and fourteenth amendments, had been violated.[75]

The court focused primarily on New Jersey law and its applicability to the case in the majority opinion while the dissent focused on issues that are found in other cases. The court asked if McGlynn's exclusion violated New Jersey state law,[76] 47 U.S. C. @315, and the first and fourteenth amendments to the United States Constitution. The court upheld the constitutionality of the New Jersey laws. They found that the state statute governing the Authority was designed to promote the public interest, and did not confer on an individual candidate a right to be included in any program or series of programs. A candidate's only right was to receive fair, balanced and equitable treatment in the authority's coverage. The court found that the Authority's coverage was fair and that the authority had the right to exclude the plaintiffs because the

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[74] *McGlynn v. New Jersey Pub. Broadcasting Auth.*, 88 N.J. 112; 439 A.2d 54; 50 Rad. Reg. 2d (P&F) 867; 27 A.L.R. 4th 322; 7 Media L. Rep. 2446.

[75] Id.

[76] N.J.S.A. 19:44A-39 (Section 14 of the 1974 "Act to amend and supplement 'The New Jersey Campaign Contributions and Expenditures Reporting Act'"), N.J.S.A. 48:23-7(h) (Section 7 of the "New Jersey Public Broadcasting Authority Act").

Authority had the right to make editorial judgments in accordance with federal and state law.[77]

The court did not agree with the dissenter, Justice Pollock, who argued that the holding could convert New Jersey public television into a public forum to which all citizens would have a right of access. Thus the court did not find that the station or the program was a public forum and that the Authority had the same rights as private broadcaster's to make editorial decisions.

DeYoung v. Patten

In *DeYoung v. Patten,*[78] filed March 14, 1990 in the U.S. Court of Appeals for the Eighth Circuit, Garry DeYoung sued Iowa Public Television[79] (IPT), a state instrumentality; the Iowa Public Broadcasting Network (IPBN); Larry G. Patten, executive director of IPT; and other staff of IPT. He alleged that they had committed various constitutional and statutory violations in connection with their coverage of his unsuccessful 1984 U.S. Senate campaign. The District court for the Northern District of Iowa dismissed the case for failure to state a claim. DeYoung appealed the decision. The U.S. Court of Appeals affirmed the order of the district court.[80]

DeYoung ran unsuccessfully in 1984 for the office of United States Senator from Iowa. He was a legally qualified minor candidate. The "major" party candidates were Tom Harkin and Roger Jepsen. DeYoung alleged that he was denied access to an IPT sponsored debate between the major party candidates and was denied equal air time. DeYoung maintained that his first amendment rights had been violated by IPT.[81]

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[77] *McGlynn v. New Jersey Pub. Broadcasting Auth.*, 88 N.J. 112; 439 A.2d 54; 50 Rad. Reg. 2d (P&F) 867; 27 A.L.R. 4th 322; 7 Media L. Rep. 2446.

[78] 898 F.2d 628, (8th Cir. 1990)

[79] Iowa Public Television is a state agency, the public broadcasting division of the state's Department of Cultural Affairs.

[80] *DeYoung v. Patten*, 898 F.2d 628; 1990 U.S. App. LEXIS 3722; 67 Rad. Reg. 2d (P&F); 17 Media L. Rep. 1638. pp. 1-19.

The District Court held that there was no "state action" for purposes of 42 U.S.C. @ 1983 because the actions of IPT and its staff could not be "fairly attributed to the state." The district court found that the state had administratively distanced itself from the editorial and programming decision made by IPT and its staff.[82]

The central issue asked if the defendants violated DeYoung's first amendment rights by excluding him from the televised candidates' debate? The U.S. Court of Appeals held that he was not denied fair treatment because DeYoung failed to state a claim. The Court stated that: "We disagree with the district court that the defendants did not act under color of state law in excluding DeYoung from the candidates' debate. We hold that there was state action. However, we affirm the district court order dismissing the complaint because we agree that DeYoung's complaint failed to state a claim. He was not denied fair treatment in violation of the equal time provision of the Federal Communications Act."[83]

The Court of Appeals found that IPT and the defendants were state actors working for a state agency and that IPT sponsored the debate. It agreed that state employment was "generally sufficient to render the defendant a state actor."[84] Patten and IPT employees were found to have acted as state employees under color of state law for purposes of @1983.

Regarding DeYoung's first amendment claim, the court dismissed it for failure to state a claim because, as a candidate, DeYoung had no first amendment right to appear on television at least to any extent greater than the limited right of access granted by the equal time provision of the Federal Communications Act. A political candidate did not have a "constitutional right of broadcast access to air his [or her] views."[85] The Court held that DeYoung's constitutional claim failed because a public television station like IPT is not a public forum for purposes of the first amendment. "A facility is a public forum only if it is designed to provide a general public right of access to its use, or if such public access has historically existed and it not incompatible with the facility's primary activity"[86] The Court found that the "usual activity for a public television station is the statutorily mandated practice of the broadcast licensee exercising sole programming authority" and "the general invitation extended to the public is not to schedule programs, but to watch or decline to watch what is offered." (*Muir*)[87] The Court noted that IPT does not allow anyone, even political candidates, to appear on its broadcasts or programs at any time. A public television station like IPT does "provide a forum for some public discourse [but] the nature and purpose of the forum is not compatible with unrestricted public access, or even with unrestricted access by a particular class of speakers."[88]

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[81] Id. at pp. 1-3.

[82] Id. at p. 4.

[83] Id. at p. 5.

The holding of the Appeals Court that the IPT was a state actor was in accord with the holding in *Forbes*. However, the Appeals Court held that the IPT was not a public forum and that DeYoung had no first amendment right of access. This portion of the holding is in agreement with *Muir, Chandler, Arons and McGlynn*.

Chandler v. Georgia Public Telecommunications Commission

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[84] *Lugar v. Edmondson Oil Co.*, 457 U.S. at 936 n. 18 as cited in *DeYoung v. Patten*.

[85] *Kennedy for President Comm. v. FCC*, 204 U.S. App. D.C. 145, 636 F.2d 417.

[86] *Muir v. Alabama Educational Television Comm'n.*, 688 F.2d 1033, 1042 (5th Cir. 1982)

[87] *DeYoung v. Patten*, 898 F.2d 628; 1990 U.S. App. LEXIS 3722; 67 Rad. Reg. 2d (P&F); 17 Media L. Rep. 1638. p. 5-11.

[88] *Estiverne v. Louisiana State Bar Ass'n., 863 F.2d 371*(state bar journal is not a public forum). as cited in *DeYoung v. Patten*, 898 F.2d 628; 1990 U.S. App. LEXIS 3722; 67 Rad. Reg. 2d (P&F); 17 Media L. Rep. 1638. p. 12.

The next decision to consider is *Chandler v. Georgia Public Telecommunications Commission*, decided October 31, 1990, by the U.S. Court of Appeals, Eleventh Circuit. Appellee Walker Chandler filed suit on September 17, 1990 against the Georgia Public Telecommunications Commission (GPTC), a state instrumentality, in federal district court. Chandler was the Libertarian candidate for the lieutenant gubernatorial race. In his suit, he sought to keep GPTC from broadcasting a debate between the major party candidates on November 2, 1990 unless he were included as a debate participant. He was offered equal opportunity to present his political views under Section 315 in the form of 30 minutes of air time by GPTC. The Libertarian gubernatorial candidate, Carol Rand, intervened as a plaintiff, seeking to enjoin a similar debate between the major party gubernatorial candidates unless she were allowed to participate. On October 18, 1990, the district court issued a temporary restraining order. Its decision was based on first amendment and Equal Protection grounds and ordered the defendants to include the Libertarian candidates or not air the debate. The fact that one debate was sponsored by the GPTC and the other sponsored by the Atlanta Journal Constitution did not affect the court's ruling.[89]

The district court's order was vacated permanently and remanded to the district court to dismiss the complaint because the Court of Appeals did not find that GPTC was a medium open to all comers. It was not found to be a public forum. The court said that the state may regulate activity that does not function as a pure marketplace of ideas in order to protect the primary function of the activity.[90] The court did not consider GPTC a forum, open to all who have a message. It was not considered a market place of ideas. The court found that GPTC was "created, designed, and intended for the purpose of providing educational, instructional, and public broadcasting services to the citizens of the State of Georgia."[91] As a public television station, GPTC was found to be under an obligation to serve the public interest.[92] The Court noted that the staff of GPTC made editorial decisions on a daily basis determining which programs to air in order to meet the needs and interests of Georgia's citizens. The public was not given free access to GPTC air time.[93]

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[89] *Chandler v. Georgia Public Telecommunications Commission*. 917 F.2d 486 (11th Cir. 1990).

[90] *Schneider v. Indian River Community College Foundation, Inc.* 875 F.2d 1537, 1541 (11th Cir. 1989).

The court found that content was regulated by the GPTC decision to air debates between candidates of the major parties. However, the Court found that the content-based decision making was not viewpoint restrictive and did not violate the first amendment. The court noted that a decision to air any show was necessarily content-based. GPTC chose to air a debate between only the Democratic and Republican candidates because it believed such a debate would be of the most interest and benefit to the citizens of Georgia. Such a decision promoted GPTC's function, was "reasonable" and was "not an effort to suppress expression merely because public officials oppose the speaker's views." [94]

The Court found that GPTC did not have a policy or practice that "pervasively 'curtail[s] access to ideas,' lending a constitutionally impermissible, discriminatory bias to the station's mission,"[95] and found that the district court erred in basing its order on first amendment grounds. In a note, the court said that *DeYoung v. Patten* also found that the first amendment does not necessarily grant political candidates the right to be included in candidate debates. In that case, minor party

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Chandler citing Muir, 688 F.2d at 1050.

[91] O.C.G.A. Sec. 20-13-5(a) (Supp. 1990).

[92] *Chandler v. Georgia Public Telecommunications Commission*. 917 F.2d 486 (11th Cir. 1990). citing *Schneider*, 875 F.2d at 1541.

[93] *Chandler v. Georgia Public Telecommunications Commission*. 917 F.2d 486 (11th Cir. 1990).

[94] *Cornelius v. NAACP* Legal Defense & Educational Fund, Inc., 473 U.S. 788, 800, 105 S.Ct. 3439, 3448 87 L.Ed.2d. 567 (1985). as cited in *Chandler*.

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candidates were found to have "no first amendment right to appear on television, at least to any extent greater than the limited right of access granted by the equal time provision of the Federal Communication Act and the cases cited therein.[96]

The Court found no Equal Protection violation. The Court held that the Appellees were not members of a protected class, and thus the appellants need only exhibit a rational basis for their decisions.[97] Since the Appellant's decisions were rational then they found no equal protection violation.[98]

In its conclusion the court said that the use of state instrumentalities to suppress unwanted expressions in the marketplace of ideas would authorize judicial intervention to vindicate the first amendment. In addition the court said that public television stations must, no matter what may be the wishes of state government personalities, abide by the dictates of 47 U.S.C. Sec. 315 regarding fairness and balance, or lose their licenses. "We are not willing to establish a precedent that would require public television stations to forego the broadcast of controversial views touching upon important public issues--environment, ecology, animal rights, ozone depletion--lest the airing of such program require the inclusion of a cacophony of differing views on each subject. The values sought to be fostered by the first amendment would be frustrated, not furthered, by the fitting of such harnesses on public television."[99]

Circuit Judge Clark issued the dissent. He said that: "Under the facts of this case, the first amendment forbids the state from selectively

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[95] Schneider, 875 F.2d at 1541. as cited in Chandler.

[96] *Chandler v. Georgia Public Telecommunications Commission.* 917 F.2d 486 (11th Cir. 1990).

[97] *Eide V Sarasota County, 908 F.2d 716, 722 (11th Cir. 1990).*

[98] *Chandler v. Georgia Public Telecommunications Commission.* 917 F.2d 486 (11th Cir. 1990).

choosing which qualified candidates can and cannot debate and further forbids the state from denying its citizens the opportunity of simultaneously viewing the candidates whose names will face them on the ballot. The uncensored right to speak and to hear go to the heart of governance in this democracy. Political debate should have the highest rank on the first amendment's scale of liberties. Thus, I respectfully dissent."

Though overturned, the district court held that "defendants have failed to even articulate a reasonable basis for excluding ballot-qualified Libertarian candidates from a nonpublic forum." The court rejected appellants' argument that the Libertarians could be excluded on the basis that their views were less newsworthy than those of the major party candidates, holding that this was impermissible viewpoint-based discriminations.[100] The district court also found that the Appellees' fourteenth amendment equal protection rights had been violated.

Forbes v. Arkansas Educational Television Commission

The facts of this case are complex. The Arkansas Educational Television Network sponsored and broadcast a debate between the candidates of the two major parties for the office of United States Representative for the Third District of Arkansas in the 1992 election. An independent candidate, Ralph P. Forbes, had obtained enough signatures to qualify for the ballot under state law.[101] He was not included in the debate by the programming staff of AETN because the program was planned for the major party candidates only.[102] The debate took place on October 22, 1992 without Mr. Forbes as his request for a preliminary injunction was denied by the United States District Court for the Western District of Arkansas.

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[99] Id.

[100] Id.

[101] *Forbes v. AETN*, 22 F.3d 1423, 1426 (8th Cir. 1994), Ark. Code Ann. SS 7-7-103(c)(1).

Forbes sought relief claiming that his exclusion from the debate violated his constitutional rights because AETN had denied him access to air time because of his political beliefs.[103] His other claims, against commercial broadcasters, which will not be explored in this paper, were dismissed.[104] Forbes maintained that when he asked AETN to include him in the debate or to give him equal opportunity,[105] his requests were refused. AETN maintains that he never requested equal opportunity and that had he requested time, his request would have been honored.[106]

The district court found that AETN had not violated Forbes' first amendment rights and granted AETN's motion to dismiss the complaint. Forbes appealed to the U.S. Court of Appeals, for the Eighth Circuit. The Eighth Circuit heard the case and issued an *en banc* opinion which affirmed in part and reversed in part the lower court's decision. The Court of Appeals rejected Mr. Forbes' claim under the Federal Communications Act and held that Section 315 of the Federal Communications Act[107] did not

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[102] Telephone interviews with Susan Howarth, Executive Director of the Arkansas Educational Television Network. (Feb. 8 1996 and Aug. 23, 1996).

[103] *Forbes v. AETN*, 22 F.3d 1423, 1426 (8th Cir. 1994)

[104] The private broadcasters Forbes sued included KHBS TV/Channel 40 UHF; KHOG TV/Channel 29 UHF; the American Broadcasting Company, Agent Darrel Cunningham; KARK TV/Channel 4 VHF. "On November 2, 1992, one day before the election, Forbes amended his complaint to include the previous privately owned television stations and ABC. He claimed that the private stations have violated the provisions of the Communications Act by refusing to air one of his antiabortion advertisements except during "Safe-harbor" hours of 11:00 p.m. to 6 a.m. without first making a determination that the ad was indecent. Forbes alleged a criminal conspiracy, "RICO treble damages," and violations of 42 U.S. C. Sec. 1981 *et seq.*, and claimed the private stations' actions also were in violation of 47 U.S.C. Sec. 315." "The private stations moved . . . for dismissal under Fed. R. Civ. 12(b)(6) arguing that the district Court had no subject-matter jurisdiction under the Communications Act, and that Forbes had failed to exhaust his administrative remedies." The Court dismissed Forbes' claims against the private stations because he didn't take his claim to the FCC. They dismissed the alleged violations of 42 U.S.C. Sec. 1981 for failure to state a claim.

[105] Section 315(a) of the 1934 Communications Act states, "If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station. . ." 47 U.S.C. Sec. 315(a).

[106] Telephone interviews with Susan Howarth, Executive Director of the Arkansas Educational Television Network. (Feb. 8, 1996 and Aug. 23, 1996).

[107] 47 U.S.C. SS 315.

create a private cause of action. The Court found that Forbes did have a first amendment claim strong enough to go to trial under Fed. R. Civ. 12(b)(6).

AETN argued that the first amendment claims should be evaluated using public-forum[108] analysis. The Eighth Court held that governmentally-owned television stations are not traditional public fora. However, the Court said, AETN may have created a non-traditional public forum, either limited or non-public, when it sponsored and broadcast the debate. The Court described a limited public forum as, "a place that generally is not open for public expression, but that the government has opened for use for free speech for only a limited period of time, a limited topic, or a limited class or speakers."[109] A non-public forum was described as property not usually compatible with expressive activity.[110]

The Court of Appeals wanted a jury to look carefully at the nature of the debate forum and determine if AETN had created a non-traditional public forum. The jury was to determine which type of forum had been created when AETN chose to sponsor a debate featuring the candidates for the Third Congressional seat. If the jury, according to the Court, found that AETN had created a limited public forum, then Forbes would have a first amendment right to participate in the debate and could be excluded only if AETN had a sufficiently compelling governmental interest, which was viewpoint neutral.[111] The Court noted that if the jury found the debate was a non-public forum and the jury found that the exclusion was not viewpoint-based, then Forbes' first amendment claim would be dismissed. Since AETN had not given a reason to the Court for excluding Forbes, the Court did not know whether the exclusion was viewpoint based or not. The case was remanded to the district court so it could determine the correct application of public forum analysis and to also determine if undue political influence had been applied to AETN, or if the exclusion of Forbes was based on his viewpoint.

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[108] There are two kinds of public forums, traditional and limited. Traditional public forums are places that the Supreme Court says have "immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions." See *Hague v. Committee for Industrial Organization*, 307 U.S. 496, 515 (1939). A limited public forum is government property that the government has intentionally opened to speech. A nonpublic forum is "public property that is not by tradition or designation a forum for public communication." John J. Watkins. See *The Mass Media and the Law*. 29 (1990).

[109] *Forbes*, 22 F.3d at 1429.

[110] Id.

[111] *Forbes v. AETN*, 93 F.3d 497 (8th Cir. 1996); 1996 U.S. App. Lexis 21152.

On remand, the district court tried the case by jury in Fort Smith, Arkansas. AETN appealed to the Supreme Court before the jury trial but *cert.* was denied. In the jury trial proceeding, the Court did not submit to the jury the claims Forbes made regarding Section 315. The jury only decided the first amendment claim.. It is important to note that the district court did not follow the instructions of the Court of Appeals to instruct the jury to make the public forum determination. The district court instructed the jury that the debate was a non-public forum, circumventing the decision process sought by the Court of Appeals. The jury found that AETN's editorial decision during the 1992 election was not made on the basis of political pressure from outside the professional staff of AETN or due to a concern with Forbes' views.[112] The judgment was entered for the defendants. Mr. Forbes appealed this decision to the 8th Circuit, U.S. Court of Appeals.

In its second review of the case, the Eighth Circuit considered three arguments of procedure made by Mr. Forbes in his challenge to the jury verdict. First, the Court of Appeals upheld the jury findings that AETN had not been influenced by political pressure and that the decision to exclude Mr. Forbes was not based on his political viewpoint. The author of the opinion, Chief Judge Richard S. Arnold, stated that the court had great faith in juries and in their desire and ability to follow instructions while making distinctions among the various issues put before them.[113] However, Judge Arnold noted that the third issue before the court, whether the congressional debate was a limited public forum or a non-public forum, was the main issue of the case and had not been decided by the jury. Since the district court did not instruct the jury to determine if the debate was a limited public forum, it was also undecided if AETN's reason for excluding Mr. Forbes could survive scrutiny under the first amendment, since the jury did not consider the question.

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[112] Brief of the Amicus Curiae: Organization of State Broadcasting Executives, *Forbes v. Arkansas Educational Television Commission, et al.* (No. 95-2722) (8th Cir. 1995).

Judge Arnold focused on whether the debate was a non-public forum or a limited public forum. He argued that "first amendment questions of 'constitutional fact' compel this Court's de novo review"[114] and the Court of Appeals set aside the jury verdict.

In this second hearing before the Court of Appeals, AETN argued that the relevant forum was the station while Forbes contended that the debate was the relevant forum. Arnold stated that the forum would be defined by the access sought by the speaker.[115] He found that Forbes sought access to the debate alone, and thus, the debate was the relevant forum in the case. Arnold stated: "There is no bright line or objective test for determining the character of the forum. We can say without reservation, however, that the forum in this case, the debate, is a limited public forum." According to Justice Arnold, Forbes would have a first amendment right to be included in a debate that was a limited public forum and could be excluded only if AETN had a sufficient government interest.[116] Justice Arnold did not agree that AETN had sufficient government interest as a state licensee making an editorial decision to exclude a candidate which the staff determined to be not viable as a political candidate. He stated that political viability is a tricky concept that is best determined at the polls, or by the professional judgment of nongovernmental journalists.

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[113] *Forbes v. AETN*, 93 F.3d 497 (8th Cir. 1996); 1996 U.S. App. Lexis 21152.

[114] *Bose Corp. v. Consumer's Union, 466 U.S. 508-509 n. 27. (1984). as cited in Forbes.*

[115] *Cornelius v. NAACP Legal Defense and Educational Fund* , 473 U.S. 788, 801 (1985).

[116] *Forbes v. AETN*, 93 F.3d 497 (8th Cir. 1996); 1996 U.S. App. Lexis 21152.

Subsequently, the jury verdict was overturned by the Court of Appeals since AETN had not shown that it had a compelling governmental interest to exclude Forbes from the debate. The proceedings have been remanded to the district court to impanel jury for the sole purpose of determining if the actual damages awarded[117] should be nominal or compensatory.[118] AETN appealed the decision to the Supreme Court.[119] On March 17, 1996, the Supreme Court accepted the case for the October 1997 term.

Arons v. Donovan

Arons v. Donovan,[120] was filed March 30, 1995, in the U.S. District Court for the District of New Jersey. The plaintiff, Marilyn Arons was an unsuccessful independent candidate for Governor of New Jersey in 1993. She sued the New Jersey Public Broadcasting Authority,[121] Bergen County Clerk Kathleen Donovan, and the New Jersey Election Law enforcement Commission ("ELEC"). Her case is similar to Forbes in that she was unable to gain access to a debate on the state-owned public television network (the Authority). In her complaint, she alleged first amendment and fourteenth amendment protections from actions by a state-owned licensee.[122]

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[117] Telephone Interviews with Susan Howarth, Executive Director of the Arkansas Educational Television Network. (Feb. 8, 1996 and Aug. 23, 1996).

[118] *Forbes v. AETN*, 93 F.3d 497 (8th Cir. 1996); 1996 U.S. App. Lexis 21152.

[119] Telephone Interviews with Susan Howarth, Executive Director of the Arkansas Educational Television Network. (Feb. 8, 1996 and Aug. 23, 1996).

[120] 882 F. Supp. 379; 1995 U.S. Dist. Lexis 5406

[121] The NJPBA is an instrumentality of the state of New Jersey. Established in 1968 by the NJPBA Act, N.J.S.A. 48:23-1 *et seq.* The authority owns and operates stations licensed by the Federal Communications Commission (FCC) and these make up the New Jersey public television network..

[122] *Arons v. Donovan*, 882 F. Supp. 379; 1995 U.S. Dist. LEXIS 5406. p.1.

Arons alleged that her campaign was damaged by her limited access to the media. She asked the Court to enjoin the gubernatorial election for one month and to direct ELEC to declare her a "qualified" candidate[123] On October 21, 1993, the Court denied all relief and gave the plaintiff leave to amend her complaint.[124]

The amended complaint asked the Court to make the Authority broadcast a program including the plaintiff and other interested independent candidates in discussion of the issues of the campaign or to award a cash judgment as a result of the damages to the plaintiff. She sought to have interactive debates for her participation scheduled by ELEC, to have the Authority "maintain balance, fairness and equity in the campaign" coverage, and to have the election delayed by Court order on the grounds that absentee voters did not receive her "gubernatorial statement." The plaintiff contended that news organizations had blacked out her press releases and news letters. She claimed that she received inadequate coverage from the Authority.

The portions of the complaint that applied to the Authority concerned the Authority's overall campaign coverage, and the Authority's failure to cover the plaintiff's campaign. She claimed this failure violated the New Jersey Campaign Contributions and Expenditure Reporting Act,[125] the New Jersey Public Broadcasting Authority Act,[126] 47 U.S.C. @315[127] and the first and fourteenth amendments.[128]

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[123] To be qualified as a candidate for the gubernatorial race in New Jersey the candidate must raise and expend $150,000 and apply for campaign matching funds. Only those candidates are allowed to participate in debates. Qualified candidates are eligible to participate in a series of debates if they apply for or intend to apply to receive money for election campaign expenses under N.J.S.A 19:44A-33.
N.J.S.A. 19:44A-45.

[124] *Arons v. Donovan*, 882 F. Supp. 379; 1995 U.S. Dist. LEXIS 5406. p. 2.

[125] N.J.S.A. 19:44A-39.

[126] N.J.S.A. 48:23-7.

[127] Section 315 of the Communications Act requires a broadcasting licensee to provide the same opportunities of access to each legally qualified candidate in

In the amended complaint, the plaintiff sought an order compelling the Authority to promote actual discussion of the issues by the plaintiff and other interested candidates; an order compelling the Authority to "maintain balance, fairness, and equity" in its coverage of the plaintiff's campaign; an order designating the plaintiff a "qualified candidate"; an order enabling the plaintiff to participate in at least one interactive gubernatorial debate; and an end to the alleged state-imposed "news blackout" directed at the plaintiff's candidacy.[129]

The Court dismissed some claims on Fed. R. Civ. 12(b)(6) grounds but not all claims, noting that the 1934 Communications Act imposes on broadcasters an obligation to operate in the public interest and to permit the discussion of conflicting views on issues of public importance. Though the plaintiff did read her 500 word gubernatorial statement on the air, she argued that limited exposure did not equal the statutorily mandated "discussion of conflicting views." Thus, she believed the Authority did not "operate in the public interest."[130]

The Court granted the defendant's motion to dismiss the plaintiff's federal statutory claims for failure to state a claim. The court said there was no cause of action under 47 U.S.C. @315 and that plaintiff should bring her claim before the FCC.[131]

Regarding the plaintiff's state law claims, the Court found that the question currently before it, whether the Authority fairly covered the

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a political race if any candidate has been given access. These are the "equal opportunity" rules that apply to the same office in the same election.. Access is not mandated to local and state candidates but it is mandated for federal candidates. Exempt from these rules are: Bona fide newscasts, bona fide news interviews, bona fide news documentaries, On-the-spot coverage of bona fide news events and Debates and news conferences. See F. Leslie Smith, Milan D. Meeske, John W. Wright, II. *Electronic Media and the Government: The Regulation of Wireless and Wired Mass Communication in the United States.* (1995) pp. 332-354.

[128] *Arons v. Donovan*, 882 F. Supp. 379; 1995 U.S. Dist. LEXIS 5406. p. 2.

[129] Id. p. 3.

[130] Id. p. 5.

[131] Id. p. 29.

plaintiff's campaign, was a novel issue of state law, and one which would be better adjudicated in a state court.[132]

The Court held that she did have a qualified right of access to the airwaves, under the first and fourteenth amendments, created by government sponsorship of the Authority's programming. Further the Court agreed with the holding in *Forbes* which supported a right to appear on public television beyond that which is granted by 47 U.S.C. @315. The Court found that 47 U.S.C. @315, "would allow a state-owned station to exclude all candidates with a certain point of view, except to the extent, if any, that the excluded candidates could obtain relief under the Communications Act. The court said the error of such a proposition is self-evident. The state could not, by statute or otherwise, take such a discriminatory action, absent a compelling state interest."

The Court denied the defendant's motion to dismiss plaintiff's federal constitutional claims on Fed. R. Civ. 12(b)(6) grounds since the Authority appeared to use viewpoint based exclusion. The court said, "The issue of public television's coverage of gubernatorial campaigns is likely to re-emerge in future electoral seasons. Since this issue reflects a continuing controversy, defendants' motion to dismiss the complaint as moot is denied."[133]

The Court found that the Authority was not a traditional public forum but that it was clearly not incompatible with expressive activity. Therefore, the Court decided to treat the Authority as a limited public forum. In the context of either a limited public or a nonpublic forum, the court said that the plaintiff must allege a viewpoint based exclusion from the airwaves. The court found that she clearly did state a claim upon which relief could be granted. The Candidate was not legally qualified so case was dismissed for that reason.[134]

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[132] Id. pp. 1-5.

[133] Id. pp. 1-5.

In contrast to the Forbes' ruling, this Court held the Authority itself was a limited public forum and not just the individual program, the debate.

Marcus v. Iowa Public Television

Jay B. Marcus was the Natural Law Party of Iowa (NLP) candidate for United States Representative in Iowa's Third Congressional District. He and five other candidates for office[135] sued Iowa Public Television (IPTV) and one of its officials, Daniel K. Miller, in the United States District Court for the Southern District of Iowa. The plaintiffs sought injunctive relief requiring IPTV to include all the legally qualified candidates in two scheduled joint appearances on the program "Iowa Press" in October of 1996. The district court denied the motion because injunctive relief was "not warranted" at that time.[136]

IPTV was a state actor, governed by Iowa Code @256.80-256.90. The plaintiffs sought access to the program "Iowa Press," a 30-minute news program which aired twice weekly. The staff of IPTV had planned for joint appearances on "Iowa Press" by the major party candidates. Though the program was a regularly scheduled news program, the planned format for the major party candidates programs resembled a debate. The candidates would answer questions presented by a group of political reporters. The other candidates were not included in the "Iowa Press" programs because the IPTV staff did not considered them to be newsworthy. The excluded candidates were offered equal opportunity by the IPTV staff on other IPTV programs.[137] The plaintiffs were not happy with this offer and brought suit against IPTV for injunctive and declaratory relief on September 13, 1996. The district court denied the motion for preliminary injunctive relief stating that the plaintiffs had not proved irreparable harm. "On balance, an injunction's harm to the exercise of defendants' journalistic discretion would outweigh any harm plaintiffs might suffer from not appearing on the planned Iowa Press shows." A jury was impaneled and the trial was set for September 30, 1996.[138]

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[134] Id. pp. 1-5.

[135] Edward T. Rusk, of the Working Class Party; Michael Cuddehe; Michael Dimick; Rogers Badgett; Peter Lamoureux; Fred Gratzon; were joined by Susan Marcus (Movants), registered voter.

[136] *Marcus v. Iowa Public Television*, 97 F. 3d 1137; 1996 U.S. App. LEXIS 26771 (8th Cir. 1996).

The district court found that the planned "Iowa Press" programs were debates and "bona fide news interview programs." The court found that the plaintiffs had been excluded "on the basis of independent journalistic and editorial judgments" by IPTV and that they were not newsworthy. The court found that the decision to exclude them from the programs was not based on the candidates' political affiliation or political views.[139] In addition, the district court held that the "Iowa Press" programs were a limited public forum. However, the plaintiffs' exclusion did not violate the first amendment. IPTV was held to be serving "a compelling state interest, defined by IPTV's policies, by limiting the joint appearances to newsworthy candidates." The exclusion was "narrowly tailored" because the plaintiffs had access to other programs on IPTV.[140] The district court denied all relief.

After appealing the decision to the U. S. Court of Appeals for the Eighth Circuit, plaintiffs, still seeking to be included in the "Iowa Press" programs filed an emergency motion for injunctive relief with the Eighth Circuit which was denied. The Eighth Circuit stated that the "balance of harms in this case weighs against issuing an injunction."

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[137] Id.

[138] Id.

[139] Id.

[140] Id.

They found that IPTV was a media organization and a state actor which must make editorial decisions regarding the content of programming. The Court was unwilling to interfere with the "editorial discretion" of IPTV because such interference would negatively affect their primary mission of serving the public. The Court was concerned that IPTV might cancel all scheduled joint appearances by the candidates on "Iowa Press" and other IPTV programs rather "than impair its journalistic integrity and its credibility with its viewers." The court noted that Nebraska Education Television had canceled a scheduled debate in August of 1996 when faced with the choice of including all candidates or facing litigation.[141]

The Court accepted "for the purposes of this motion" that the programs involved constituted debates and that IPTV had opened "Iowa Press" as a limited public forum to legally qualified political candidates. The Court found that IPTV's "regulation of speaker access" could withstand strict scrutiny only if it was narrowly drawn to support a compelling state interest. It agreed with the district court that IPTV would be of little value to the public it serves if it could not exercise editorial discretion. The Court agreed "that IPTV had a compelling interest, in meeting its public service goals of limiting access to newsworthy candidates" and denied the emergency motion for injunctive relief.[142] The case is on Appeal to the Eighth Circuit.

In the discussion, the Court explained that the holding in *Forbes v. AETN* did not require that every legally qualified candidate be included in a debate sponsored by a state-owned public television station. According to the Court, *Forbes* did not hold that the staff of state-owned stations had no discretion in making programming or editorial decisions because they were state actors. The Court held that IPTV's decision to exclude based on "newsworthiness" was a valid exclusion while AETN's decision to exclude based on "political viablity" was invalid as a basis for exclusion from the debate.[143]

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[141] Id.

[142] Id.

VII. Discussion

A key issue in the Eighth Circuit *Forbes* decision, written by Justice Arnold, was the focus on public forum doctrine and its application to this case. Arnold was quite interested in the type of public forum AETN created when it sponsored and broadcast the political debate. In earlier public broadcasting decisions, the Courts did not focus on the program in the discussion of public forum doctrine. Instead, they looked at the station and determined whether it was the forum, limited or nonpublic. In general, the Courts agreed that the discussions did not take place in traditional public fora. Thus, the discussions focused on the limited and nonpublic types of fora and their application to the particular case as interpreted by the Courts.

In the *Forbes'* decision, Justice Arnold held that AETN, as a government instrumentality, had created a limited public forum, in the form of the program, a debate. The class of speakers for whom the network had opened the forum was the political candidates. The Court held that AETN, as a state actor, could not limit access to a limited public forum to any candidate without violating that candidate's first amendment rights unless there was a compelling governmental interest to do so. A decision to limit a candidate's access had to be "viewpoint neutral," which meant it could not be based in any way on Forbes' political beliefs. In assuming this position, Arnold reflects prior dissents by Judge Frank Johnson and Thomas A. Clark in the *Muir* and *Chandler* decisions.

The *Marcus* and *Forbes* appeals went before the United States Court of Appeals for the Eighth Circuit. In both cases, the court found that the program, in the form of a debate, was a limited public forum. However, since the candidates in *Marcus* were excluded from the debate based on their "newsworthiness" as candidates, the court found that IPTV had not violated the first amendment rights of the candidates. The IPTV staff had excluded the candidates "on the basis of independent journalistic and editorial judgments by IPTV." The exclusion was "narrowly tailored" because the plaintiffs had access to other programs on IPTV. After denying an emergency motion for injunctive relief, the Eight Circuit U. S. Court of Appeals stated that IPTV was a media organization and a state actor which must make editorial decisions regarding the content of programming. The court was unwilling to interfere with the "editorial discretion" of IPTV because such interference would negatively affect their primary mission of serving the public. In *Forbes*, the court found that AETN staff could not base their decision to deny access to Mr. Forbes based on the "viability" of his candidacy. The said that political viability should be decided by the polls, by the voting public and not state employed journalists.

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[143] Id.

In contrast to *Forbes* and *Marcus*, the court in *Arons* held that the station itself was the limited public forum and that any attempt to limit access by the licensee must be based on a viewpoint neutral decision that has compelling governmental interest. The Court held that the decision to limit the candidate's access had been viewpoint based. The Court did not address what impact the designation of the station being the limited forum might hold for other editorial and programming decisions the station might make.

In *McGlynn* the Court did not find that the station or the program was a public or nonpublic forum. The Court did not address federal and Constitutional law, but based its holding primarily on state law. It noted that it did not believe that its holding converted the New Jersey Public Television Authority into a public forum.

In *Muir* and *Barnstone*, the issue was the right of the public to make programmatic decisions for the station in regards to a particular program being broadcast. In its decision, the Court focused on the station itself, and held that the station was not a public forum.

In *Chandler*, the Court held that the Georgia Public Television Commission was not a public forum because as a public television station, it was under obligation to serve the public interest and could not do so if the public were given access. It noted that the content was regulated by GPTC but was not viewpoint restrictive and did not violate the first amendment rights of the candidate. The Court held that the candidates seeking access to the debate were not members of a protected class and that the GPTC had the right to limited their access.

In *DeYoung,* the Court held that the station was not a public forum since a broadcast station generally does not exist to provide the general public a right of access to the facility. The court said that such access was inconsistent with the facility's primary activity.

In *DeYoung,* the Court held that there was state action because the actions of the IPT and its staff could be considered actions of the state. The Court did not agree with the district court that the state had administratively distanced itself from the editorial and programming decisions made by IPT and its staff. The Court held that the defendants were state actors working for a state agency and that being employed by the state is generally sufficient to render the defendant a state actor.

In *Forbes, Marcus, Arons,* and *McGlynn* the Court did not address the question of sponsorship, other than to note that the station sponsored the debate. In *Chandler*, though one debate was sponsored by the licensee and the other was sponsored by a private party, the court made no distinction in its evaluation of the legal questions raised by the appellants.

In *Forbes* and *Arons,* the Court did not rule on the question of equal time and did not say whether equal time would have been appropriate. Instead, it focused on Mr. Forbes' right of access to the debate only, holding that as a qualified candidate he should have been included by

AETN. In *Chandler* and *Marcus*, the candidate was offered equal time by the GPTC to present his views.

In *Forbes*, the Court held that AETN, as a state actor, had no first amendment protections as a broadcaster and did not agree that there were any buffers that separated the station from the government. Thus the stations of AETN were viewed by the Court as state actors. In *Muir*, the Court held that the licensee did not have first amendment protections as a broadcaster though it reasoned that state-owned licensees have the same rights and responsibilities to make programming decisions as privately owned stations unless it has created a public forum.

In *Forbes* and *Arons*, the Courts held that the FCC, under 47 U.S.C. @ 315 was not the proper authority to decide on a candidate's allegation of first amendment violations by a state-owned licensee. Only the Courts could decide such a case. In *Muir* and *DeYoung*, the Court held the FCC, under 47 U.S.C. @ 315 was the appropriate forum for a complaint of impermissible censorship by public broadcasting authorities. In *Chandler*, the Court stated that state-owned stations must abide by 47 U.S.C. @ 315 regarding fairness and balance or risk losing their licenses.

VIII. Conclusion

Prior to the *Forbes* case, the state-owned public licensees made editorial and programming decisions under the assumption that the Courts generally supported their rights as broadcasters to make such decisions. Though the case law tended to vary in its application of public fora doctrine, and the holdings in *Forbes* had been raised by dissenting judges in the past, in general, the Courts supported the state licensee, upholding its ability to make programming decisions in the same way that private licensees make their decisions. The holding in *Forbes* has undermined those earlier assumptions and now, the state-owned licensee is facing the editorial and decision making process in a different, less certain, manner.

Since the Courts do not agree on the issues raised in these cases, the state-owned licensee cannot rely on precedence and must be careful to consider all aspects of an editorial or programming decision in a conservative manner. Such considerations may have a chilling effect on programming choices if the broadcaster chooses to avoid controversial programming in order to avoid litigation. Also, legal costs to the broadcaster may increase, as stations turn to legal counsel more frequently for advice on programming decisions. In general, state-owned stations, as public, noncommercial stations do not have unlimited funds to dedicate to legal counsel. Such costs could also have a chilling effect on programming if excessive legal costs reduce funds available for programming or equipment. In addition, uncertainty as to the rights of state broadcasters may lead to more litigation from political candidates and private citizens if it appears that they may be able to gain access to programs or program decision making processes.

Of special concern is the confusion regarding the application of public fora doctrine to the station itself. If the station is a public forum, the station, as an arm of the state, appears to be unable to make editorial decisions, since the government would be engaging in an activity prohibited by the Communications Act. This calls into question the very ability of state-owned licensees to fulfill the requirements of their license since they would be unable to control access to the programming schedule as they are mandated to do under the Federal Communications Act..

Since the Courts do not agree when state-owned licensees are acting as an arm government and they do not agree on the application of public fora doctrine to the stations, the case law is little help in guiding the decision making process for the broadcaster. The *Forbes* and *Marcus* decisions focused on the program as the limited public forum. However, other cases found that the station was the public forum, a holding that implies a right of public access to the station itself, a situation that is in direct conflict the broadcaster's mandate to act in the public interest.

The Supreme Court could settle these issues by issuing a precedential opinion in the *AETC v. Forbes* appeal. State-owned licensees need such an opinion in order to act in the public interest and to be protected from litigation and legal costs.

Magazines in Capitalist Russia: Impact of Political and Economic Transitions

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Abstract

Magazines in Capitalist Russia:
Impact of Political and Economic Transitions

As Russia is making the transition from a state centered economy to a private sector centered economy, the media are making a transition from being a political resource model to being a commodity. The impact of these transitions on magazines is made using a cross-natiuonal comparative study of the Russian edition of *Cosmopolitan* magazine. The transition is evaluated through policy decisions, organizational issues and production using the magazine and other periodicals to illustrate the negative and positive impacts of the transitions. This study of *Cosmopolitan* magazine illustrates that media in Russia are a limited commodity and will not be fully commodified until major policy changes are made.

Magazines in Capitalist Russia:
Impact of Political and Economic Transitions

The 1989 reforms of president Mikhail Gorbachev known as *glasnost* brought important changes to Russia. These changes opened up the political system to democratic imputs and hence have changed how media and media production are defined in Russia. *Glasnost* was also linked to *perestroika*, a transition from the state centered economy of Russia to a private sector centered economy.

This paper will evaluate the impact of these transitions on magazines using transitional theory illustrated by a study of Russian magazine production with particular emphasis on the Russian edition of *Cosmopolitan* from 1994-1996. In one paper it's impossible to test all the expectations of the transitional theory that I have outlined; therefore, limits were based on available data. I use this transitional theory to predict the new patterns of state/private sector cooperation that we can expect in Russian media. These are examined through policy decisions, organizational issues, and production.

Before *glasnost* and *perestroika*, Russian media were tools to express and disseminate party ideology (Baikova, 1978; Karch, 1983; Pozdniakov, 1975). After the Bolshevik Revolution, the Russian media were taken out of the hands of the wealthy and left to the state to manage (Martin and Chaudhary, 1983). Under state ownership the media became political resources, important instruments in the centralization of power in the hands of the Russian State. With the above reforms, the media are now operating in a market economy and have become commodities. Thus, the key question asked in this study will be the following: What kinds of changes in Russian media have accompanied this shift in their construction from political resources to commodities. I hope to show that they are politico-economic instrumentalities that are somewhere between the old political resources and full-fledged commodities. First I will introduce the media models; then, I will broaden the theoretical discussion to include transitional theory.

Theoretical Background

Elsewhere I have outlined theoretical models of the media as political resources and as commodities (Rhodes & Henry, 1995). There I applied it to the subfield of newspapers. As there is no solid body of theoretical literature on magazine management (Rhodes, L., 1995; Worthington, 1995), I will now extend the use of these models to this study of magazines. Even though I will be focusing on these two models, my original outline recognized religious and truth-seeking models of the press.

In the political resource model, the media are viewed primarily as instruments whose ownership, control or deployment can significantly affect the accumulation of political power. In the commodity model, they are viewed primarily as economic resources that can significantly affect accumulation of capital. Media can function in either of the roles. However, the interests of economic and political elites means they often compete for the control of the media. Societies will vacilate between institutionalizing meida as a political resource or a commodity. As the systems change, though, new pressures are put on the media that range from press laws against journalists who 'spread panic' or 'harm the public interest,' to decrees closing publications, to threats and trials, to more subtle economic leverage, to murder of reporters and editors (Feinstein, 1995).

Whenever the pattern of media institutionalization changes, it always involves significant changes at the constitutional, legal, organizational, policy and production level. These changes exist regardless of the direction of the shift. In the case of the media shifting from a political resource to a commodity, as the state moves out, the economic elite move in. As they move in, certain kinds of changes can be expected to occur. We would expect production to become more market oriented and more international in scope. This internationalization of production is going to bring changes in techniques of production such as the reorganization of media markets. Stronger competition from outside markets would mean lots of magazines would go out of business, new ones would arrive, many of which would be foreign, either wholly or in part. We would expect new patterns of censorship to emerge and problems of cultural identity to intensify. These problems manifest themselves in things like struggles over what percentage of content should be local and what foreign?

To this framework of the political resource and commodity models, we need to add some insights from the subfield of "transitology" in order to evaluate the impact on Russian media of the transition taking place in Russia.

Transition to Market Economy

The transition to democracy and the market in the former Soviet bloc has radically transformed Soviet studies and created a new subfield called 'transitology' (Marwick, 1996). This study of the transition from communist to democratic systems uses the comparative analysis approach. This approach has been used in most of the studies examining the transitions to democracies, such as the *apertura* (opening) in Latin America and *glasnost* in Russia (Bova, 1991; Solomon, 1993).

These comparisons have been made by well-known scholars in transitional theory, O'Donnell and Schmitter (1986), Przeworski (1991), and Haggard and Kaufman (1995). Transition theorists attribute great importance to the geopolitical position of the country making the transition. Thus, Markwick (1996) argues there is a tremendous difference to the processes whether such transitions occur at the core, the periphery or outside of the world capitalist system. Przeworski (1991) emphasizes the difference between the structural adjustment programs that have been implemented in capitalist Latin American and the case of Eastern Europe. Haggard and Kaufman (1995) investigate the impact of economic crises on transitions from authoritarian rule and the impact that economic conditions and policies have on the consolidation of the democracies that emerge from these transitions. The authors argue that economic crisis makes authoritarian regimes vulnerable to political challenges. They posit that democracies emerging amidst economic crises, while supported by a popular sentiment for reform, also face greater demands for relief and, as a result, confront more constraints in launching policies of price stabilization and structural adjustment. But in spite of the difficulties, they suggest that democratic consolidation or the popular acceptance of democracy is the rule (Chu, 1996; Munck, 1996).

Transitions to democracy are costly and must be financed. This need for funding has been a major challenge for maintaining these democratic movements. In this regard, other state governments, international organizations, private institutions and independent foundations have contributed funds to shoring up countries going through the transition to a market economy. Independent foundations such as the George Soros, Konrad Adenauer, Friedreich Ebert, Friedreich Naumann, Hanns Seidel Stiftungs, the U.S. National Endowment for Democracy (NED) and Britain's Westminster Foundation, have been very visible and influential in organizing this kind of support (Quigley, 1996). Since 1989, more than 50 North American and European independent foundations have developed programs in central Europe and have provided $411 million to promote democracy. These independent foundation funds tend to be disbursed much more quickly than public funds, involve less politicized decisionmaking and rely less on the state as a partner.

These independent foundations aid the private sector in dismantling the state institutions and allowing the market to establish itself. For the immediate future, the shape of the press in Eastern Europe will be decided by the market (Sparks, 1992).

Aleady, the East European media have been penetrated considerably by Western media magnates who have vast experience in running a market-oriented press. The best known example was the rapid and complete takeover of a string of Hungarian regional papers by Springer, the German press concern (Sparks, 1991; Splichal, 1994). Then Bertelsmann acquired a 41% stake in the daily *Neszabadsag*, and Maxwell acquired 40% of the Budapest evening paper *Esti Hirlap* (Sparks, 1991). By the end of 1990, all but two of the Budapest national daily papers had substantial shareholdings held by Western media conglomerates (Tamas, 1990). A similar pattern is repeated throughout Eastern Europe. *Bonnier Information*, the management magazine of the Swedish media group Bonnier, summed up the general reaction to the changes when it greeted the reunification of Germany with the headline "Ett Nytt Land--Och En Ny Marknad (A New Country and a New Market)(Sparks, 1992).

In sum, the theoretical framework that will guide this analysis of Russian magazines will correlate the transition from political resource model to the commodity model with the transition from an authoritarian state centered economy to a democratic private sector oriented economy.

On the basis of this combined analysis, I will attempt to support the following thesis: that magazines in Russia are being reconstructed as limited commodities whose political potential still constrain their level of commodification. I will support this thesis using data on media policy, production and market size. I use the argument that limited economic resources introduce foreign capital, introduce foreign competition like *Cosmopolitan*, reorganize media markets, introduce advertising, and reestablish a cultural identity through editorial content.

Russian Media Policy

One way the Russian state is restricting the commodification process of media is through policy. Press laws are being written but parliamentary controversies on de- and re-regulation of the media continue in Russia. Apart from privatization of newspapers and magazines, nothing new has been institutionalized on a large scale; printing plants and distribution systems are still largely owned or controlled by the state (Splichal, 1994). The state also wants to maintain control over broadcasting and national news agencies. These types of media are considered more important than print to futhering the state ideology to the masses.

The "Law on the Press and Other Mass Information Media" was signed by Gorbachev on June 12, 1990. The law limited censorship to state security matters and gave editorial staff considerable autonomy (Goban-Klas, 1994). Yelena Rodnevskaya, head of the Russian Ministry of the Press and Information's department for the development of information policy, defines the new Law on the Press of Russia:

> Law [on the Press] gives every citizen the right to publish his own magazine. A painful structural reorganization of the periodical press has begun. The spectrum of publishing is expanding, and niches that used to be empty and unrecognized are being filled. What's more, the time in which we live is not a 'silver age' but rather an age of mass culture (Rubantseva, 1992).

This press law has not been backed up with other laws protecting domestic media properties. There is a growing concern of the state's vulnerability as foreign capital investments are being encouraged as joint ventures or in pure form (Szekfu and Valko, 1990). Strict media laws are needed "in order to prevent foreign interests from buying print and broadcast resources and driving out domestically owned and produced products" (Stone and Marks, 1991).

Though this legal policy of the state fits the transitional model predictions that the state would establish legal rights to freedom of expression, it does not go far enough to protect media properties. It sets limits to the transitional process. Media policy does meet the predictions for commodification of media as does the state's process of dismantling its relationship with media by reducing subsidies. This reduction in subsidies, though, has a mixed effect on media. One effect is to separate the state from media production. The second effect is to decrease the number of domestic publications and encourage foreign investment.

There were 3,000 magazines being published in Russia in 1995. But, according to Brumberg (1995), Russia's periodical press is deteriorating. He argues that magazine fare has gone from political discussion to consumer-oriented features. Even though subsidized, rates are high, dissuading people from subscribing. The subsidies provided by the government are often not enough, leading many magazines to cut their circulation (Rubantseva, 1992). Sergei Zalygin, editor of *Novy Mir* magazine says: "We've set a high price for the magazine and haven't urged people to subscribe to it. Right now a large circulation is unprofitable. Since our subsidy isn't enough to live on, we have to consider the interests of our sponsors, and they find it profitable to have a smaller circulation and a higher price" (Rubantseva, 1992).

An additional problem to the subsidies awarded is that they are not always awarded equally. An example is Boris Yeltsin's February 1992 decree awarding the largest financial support to the government publication, *Rossiyskaya Gazeta* (*The Russian Gasette*) (Splichal, 1994). What this means to the transition taking place is that the state is still participating in media production and allowing only limited commodification of media.

Russian Media Production Issues

The process of limited commodification by the state is extended to other areas required by magazines in production: available supplies and distribution networks. In Russia, along with increased costs, it is difficult to obtain newsprint (Rhodes, M., 1993). Prices for raw materials have skyrocketed while circulation has plummeted (Charles, 1992). These production costs are compounded by distribution problems which have always plagued the press in Russia (Rhodes, M., 1993; Splichal, 1994). The postal system is slow and unreliable. The post office is a state-monopoly with a history of refusing to send publications or sending them deliberately to wrong regions of the country; and, there is no discount postal rate for bulk magazines (Lorimer, 1994). Attractive, glossy magazines are often stolen before delivery. Soviets have been subscribing to publications by making annual arrangements with the post office (McKay, 1991).

Besides the problems with distribution and obtaining supplies, if the Russian transition follows that of the transitions in Poland and Hungary, the state will tax newsprint at 20% and levy a 55% tax on profits (Stone and Marks, 1991). This creates yet another opening for foreign investment into the market.

Russian Market for Magazines

A sizeable reading population is one assumption made based on the fact that there are large universities, a proliferation of print media, and a history of Russian literature. Data supports this assumption based on surveys conducted indicating that Russians spend more of their leisure time reading than doing any other activity. Two surveys in particular support this claim: (1) a 1993 survey of 1,050 Muscovites by the Moscow branch of the Russian Center for Public Opinion and Market Research, and (2) Russian Public Opinion and Market Research in April and May 1993 of 2,624 European Russians (Rhodes, M., 1993). The surveys also indicate that women make up over 60% of the readership for print media.

In addition, the influence of Western culture enters Russia through media, a prediction made by transitional theory. Manaev (1991) examined media culture and the effects Western radio has on Russian youth in a sociological analysis. He evaluated how this process affected the democratization of society, the development of social activity and young people's self-consiousness. He determined through his study of 2,000 subjects, that although revolutionary changes in Societ society had occurred since April 1985, the young people questioned have lived most of their lives in the pre-perestroika period. This period contained Stalinist crimes, the period of corruption under Brezhnev, the catastrophic ecological situation in many regions, and the bureaucratization of Komsomol activities and other public organizations. Manaev posited that Russian young people continue to be influenced by Western media even with *glasnost*.

Infiltration of Foreign Capital

Given the basic organization of transitional theory, we would expect private foundations and private capital to be much more present in Russian magazine production. And, true to the theory, many foreign publishers are testing the Russian market in two ways, through English language publications and through joint ventures. An example of a joint venture is *Finance and Development*, produced by International Monetary Fund (IMF) and the World Bank (Donaton, 1990; New Magazines, 1996). Journals and magazines from the Russian Academy of Sciences are being published by Pleiades Publishing, a branch of General Media International Inc., and the American Institute of Physics. Both hope to profit commercially as well as provide a service to international science (Pokrowsky, 1992). Joint ventures include the Soviet weekly, *Ogonyok*, an issue oriented joint venture with a British publisher (Shabad, 1989) and *Business Russia* published by Russian American Publications. A Swiss-Soviet joint venture, *Contact Dossier*, is a monthly business magazine on joint venture opportunities in the Soviet Union. Soviet

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journalists write the stories, Europeans edit. The magazine is written in English (Sheeline, 1989). Robert Maxwell printed the English version of *Moscow News* in Russia.

Joint ventures are the way many publishers view entering a new market safely. Mike Lafavore, editorial director for Rodale Press, believes that the key to developing a franchise abroad--editorially--is to avoid Americanizing the title (Hochwald, 1995). Therefore when Hearst decided to move into the Russian market in 1994, it hired one Russian editor and a Dutch editor. The staff began with 15 and increased rapidly to 300 within the first year. The art designers are Dutch, there are a couple of French, five Americans, several Germans and the rest are Russian. The hiring of Russian staff indicated that an effort was being made to maintain the Russian autonomy for informational content; however, the decision makers: editors, art designers are primarily foreign.

Development of *Cosmopolitan* in Russia

With limited resources and lack of economic know-how, Russian publishers were at a real disadvantage when the market economy was introduced in 1989. The way was paved for more experienced publishers with deep pockets, like Hearst Magazines International.

One of the Hearst titles, *Cosmopolitan*, is published in 27 versions in over 80 countries. Therefore *Cosmopolitan* was the most likely magazine of the Hearst properties to be published in Russia. It became the first international women's magazine to be produced in Russian when it was launched April 27, 1994.

> Anyone arriving at Moscow's airport with a copy of *Cosmopolitan*, a magazine for adventurous young women, could still, at a pinch, be charged with possessing pornography--or more likely, have to surrender it meekly to a chuckling customs officer. So this month's launch of *Cosmopolitan* in Russia is another official nudge-and-wink at how Russian attitudes to everything, including sex, are changing ("Sex Please," 1994).

The magazine, issued bi-monthly for the first year, is produced through a joint venture between Hearst and the Dutch company, Independent Media. By launching *Cosmopolitan* in Russia, a new Cosmo girl was created.

According to Ellen Verbeek, co-editor of *Cosmopolitan* in Russia, "The Russian Cosmo girl can be found mostly in cities, primarily in Moscow and St. Petersburg, where capitalist in roads are greater, incomes higher and life styles more Western. She is in her 20s or 30s, works in a new Russian business with foreigners and makes about $200 a month, which by local standards, is fairly high income" (cited in Shapiro, 1994). Yelena Myasnikova, the other co-editor, says "this Cosmo-devushka probably works as a secretary or translator in a Western firm or in a small Russian business" (cited in McElvoy, 1994). And according to Myasnikova, "there is a new generation of bright, hip, outgoing women and Cosmo is the magazine for them" (cited in Shapiro, 1994). A 1996 readershp survey said the Russian Cosmo readers were women, 16-29 years old, 81.9% had secondary education, 49.6% had university degrees, 53.38% worked at least part time, 28.31% are students, 55.99% are single, 41.6% have a family income of US $500 per month, 14.53% have a family income of $1,000 per month (Morris, 1997).

And since Russian women "dress" despite the harshness of the climate and conditions of life, *Cosmopolitan* has readers. Among most young Russian women, the attitude is to always look good, no matter what the cost economically or physically. This means high heels on terrible Russian roads, in the rain or snow (Morris, 1995).

Market research in Russia indicated that Russians knew the name *Cosmopolitan* before the magazine was even launched. The 1996 readership survey indicated that 51.33% of Cosmo buyers bought it for the name (Morris, 1997). This makes selling the magazine easier, even in a climate where state-owned organizations limit publications. There is no cover price on the magazine. It is sold to store owners with a suggested retail price of US $5.00 per issue. The street price is set by the vendor, who purchases the issues and cannot return the unsold copies. For a working girl, the price is high.

"I don't care if it is the only treat I will have in the month," says a reader. "If it is about normal life, not politics, and small worries rather than big ones, we'll be queuing up for it" (Gill, 1994).

Market Economy Introduces Advertising

The market is there according to market researchers. Western advertisers are eager to imprint their images on the emerging Russian market before consumers, who are willing to try almost anything new, develop strong brand preferences (Efron, 1994). In fact the *Cosmopolitan* marketing team sold all 46 1/2 ad pages in three weeks (Kaplan, 1994). According to George Green, president of Hearst Magazines International, "It was much easier to set up this magazine in Moscow than in many other cities in the world. I went into the stores and saw lots of different products in each category--cosmetics, perfumes, soaps. The minute I saw there was competition, I knew we could get advertisers because there's already a concept of product differentiation. On the basis of that, I saw that we could be in business. There's no other magazine here for these people to turn to" (cited in Kaplan, 1994).

Cosmo ads are Russian adaptations of Western campaigns with text changes only. Major advertisers include Estee Lauder, Lancome, L'Oreal, Revlon, Paloma Picasso, Reebok, and Christian Dior. The first issue of 130 pages had 46 full page ads. Six months later the magazine had 250 pages with 144 full page ads. In July 1996, a readership survey listed 80.66% of Cosmo readers bought products advertised in Cosmo. Of those, 76.52% said they remember products because they were advertised in Cosmo (Morris, 1997).

Whereas many of the ads are bought by international companies with global interests, the ads are influencing the editorial content through design. The ad designs are glossy; the text designs are plain. Solovyev says, "There was no real market for attractive magazines. People would read the things you tell them to. Now it's changing, if you want to sell your product, you have to make it attractive," (Solovyev, 1995).

Reorganization of Media Markets

Another prediction made by the transition from a political resource to a commodity is that there would be competition. At the time, though, competition for magazines, in particular

Cosmopolitan, is Hatchette's *Elle.* The established Russian periodicals do not emulate Western styles and are not considered serious competition. The women's magazines include ***Krestyanka*** (Peasant Woman) with a 600,000 circulation, ***Rabotnitsa*** (Working Woman) with 500,000 circulation, ***Mir Zhenshchiny*** (Woman's World) with 105,000 circulation, ***Moda i Mir*** (Fashion and the World) with 250,000 circulation, ***Modeli Sezona*** (Models of the Season) with 150,000 circulation, and ***Zhurnal Mod*** (Fashion Journal) with 250,000 circulation ("The Russian Federation," 1996). Other magazines listed that may be competitive include ***Boutique, Burda Moden, Domovoi, Imperial*** and ***DeStyl.*** None of these were listed in the Europa 1996 and no auditing method is used in Russia to verify the circulation figures. This is another policy feature that limits the commodification of media in Russia. Foreign media depend on auditing methods to verify circulation to assure advertisers that the magazine is reaching a number of audience members.

The first print run of *Cosmopolitan* was 60,000 with the circulation up to 350,000 by July 1996. With a pass along readership of 5.8 people, there are two million Cosmo readers in Russia. The copy is produced in Moscow with the printing in Holland where higher quality printing facilities are available and better consistency of supplies. The magazine is then trucked back into Russia for distribution. The Kiosks where publications are usually sold are state-run; so, *Cosmopolitan* in Russia is sold to boutiques, cosmetic shops, hotels and discos (Kaplan, 1994). A list of vendors which carry the magazine is on the back of each issue. Included are salons (Jacques Dessange), upscale stores (Bradleys of London, Charles Jourdan), hotels and clubs. The magazine is distributed in Russia, C.I.S. (Commonwealth of Independent States), the Baltics, Ukraine and Beloruss. The distribution method used by Hearst in Russia avoids some of the distribution problems plaguing the country. *Reader's Digest* is experimenting with alternative distribution methods as well.

Cultural Identity Through Editorial Content

The commodity model suggests the necessity not only to have an audience that reads, but to target that audience through both advertising and editorial content. This editorial content could introduce new topics to the culture or could maintain the existing culture. This supports the prediction that commodification of media has direct relevance to cultural transformations. Additionally, transitional theory predicts a decrease in nationalism as a country moves from a state centered structure to a more private sector oriented structure.

The editorial content of *Cosmoplitan* supports the Russian preference for text. Russians like to read. The high literacy rates influence design because, according to Van der Doef and Solovyev, both designers for the Hearst Magazines International in Moscow, Russians are not used to the Western tradition of magazine as visual pieces with text, but rather, they place more emphasis on text and less on visuals. "The Russian tradition goes toward literature, magazines feature only text, like books," says Solovyev. Van der Doef confirms, "Russian people want to read, read, read."

Some of the articles in the Russian *Cosmopolitan* are translations from other *Cosmopolitan* magazines. The content uses the Cosmo philosophy; but, in its first issue, the articles indicated a watering down of the usual Cosmo fare. For example, titles included the following: "Sex or Chocolate?" "Are Husbands Necessary?" "Handling a Future Mother-in-Law." Six months later the articles became a bit more spicy. For example, titles included the following: "The Mystery of His Orgasm." "You Can't Choose Your Boss, But You Can Handle Him." "The Theorem of Sexual Harmony." "After Fighting (How to Survive Your Ex-Husband's New Love)."

The Cosmo editorial standbys are in the Russian edition: Beauty Tips, the Compatibility Quiz and the Horoscope. Photo layouts are often identical to the American editions. The features include interviews with prominent Russian figures. Issues covered include career vs. marriage and abortion. A cover line on one edition was: "Thirty, Independent, Sure of Themselves--Do They Need a Husband?" Myasnikova explains, "Of course in the West, it's not an issue....But here, someone like this is regarded as an old spinster." And on the topic of abortion, Myasnikova said, "In the West, the editor would want a pro-choice story. But in Russia, abortion is considered a form of contraception. We're saying, hey, abortion is not the only choice" (cited in Kaplan, 1994).

The fashion spreads are developed by using clothes that can be purchased in Moscow (Efron, 1994). Russian models are used in the fashion spreads. Covers, however, use top Western supermodels such as Cindy Crawford, Claudia Shiffer, and Stephanie Seymour.

The top models are also identified in the print ads throughout the magazine.

"Getting the shop managers to lend us clothes for the shoot was a problem because that sort of thing doesn't happen here," explained Verbeek. "They were very grudging about it and surprised when we told them that in the West, shops are delighted when their clothes are featured in a magazine" (cited in McElvoy, 1994).

Through the editorial content, the above examples verify two predictions: (1) that *Cosmoplitan* magazine follows the predictions made by the commodification model for media and (2) that transitional theory predicts less nationalism will emerge. Story ideas moved from traditional Russian ideas to the more Western ideas. As circulations increased with the change in editorial content, the assumption can be made that the audience prefers the more risque editorial over the traditional Russian fare.

Discussion

During the transition from one model to another or from one economy base to another, several impacts to media are obvious, others are limited. The obvious impacts can be seen in the shifts from the political resource to the commodity model. Whereas the state's role was changed in media production, the change still impacted media in negative ways. Media have no protections from state decrees or from foreign investments. Whereas laws have been made that allow freedom of the press, there are other ways the state controls the press. These controls include taxes on newsprint, unequal distribution of subsidies, continued state involvement in ownership of broadcast, news agencies, media production and distribution facilities. There has been a decline in the socio-cultural aspects of information and entertainment as witnessed through editorial content of magazines.

A positive shift from the political to commodity model is in the increase of the number of social groups who view media as commodities. Through the joint ventures, numerous publications have been created to provide information to the Russian reader. Foundations have provided money to train journalists to create a media environment condusive to democratic reforms. This informational role of media has provided a legitimatizing role for the private sector in media production.

The institutionalizing of both the negative and positive impacts will require changes at the legal and constitutional organization and policy levels. Some of these changes have been made. The changes predicted were the marketization and internationalization of production. This is taking place as new markets are opened up with foreign investors. Another change predicted was the reorganization of media markets. As magazines close or refocus their content based on new joint ventures, the media climate changes. The introduction of magazines like *Cosmopolitan* into Russia indicates a new media climate. The magazine had been banned, now it's a hot property.

Another change predicted was that new patterns of censorship would emerge. This has occurred through the new pressures put on journalists and media personnel with press laws against those who 'spread panic' or 'harm the public interest,' to decrees closing publications, to threats and trials, to more subtle economic leverage, to murder of reporters and editors.

And finally, the change was predicted that problems of cultural identity would surface. These problems are obvious through the editorial content of magazines, through the addition of advertising in a market centered economy, and in the increase of the number of readers that have accepted more Western layouts and designs to traditional Russian formats.

These obvious impacts the state has on media during both of these transitional processes do not eliminate the less obvious impact: the state's ability to restrict media to a limited commodification stage. This is accomplished by not allowing full ownership, by not allowing full press freedoms, and by not providing the economic stimulus needed to maintain a full-fledged market media system.

The impacts made by the state on media make this study important to transitional theory and to commodification of media in two ways: (1) establishes the relevance of magazines as compared with other media and (2) emphasizes the impact of limited commodification on media in Russia. First, magazines are often viewed as being the least important media to political discourses. Magazines are not seen as being as important as broadcast or other forms of media are to the political needs of the state. Yet due to the limitations placed on media by the state, magazines in Russia may have the highest level of commodification of all Russian media. Therefore, if through an analysis of magazines, certain predictions can be ascertained as true, then there is nothing to suggest that other media will not also hold these same predictions to be true.

Second, magazines may be a good example of a limited commodity model in Russian media. Since the pattern of limitations are not uniform, magazines may constitute the biggest challenge to my thesis; therefore, if it can be shown that in the least case, that is through magazines, that Russian media are not being reconstituted as a full commodity, then when additional studies are made of broadcast and news agencies, similar predictions are most likely to be made. Through the policy actions or inactions of the state in the area of ownership, freedom of expression and equality, the commodification process is restricted and media are limited. By privatizing some institutions and not privatizing others, the commodification process is restricted. The state still controls printing, production and distribution processes for media. And finally, by allowing unrestricted foreign investments without policies to protect national interests, the domestic media declines or even ceases to exist.

Transitions are ongoing exercises of merging from one system to another. Some processes are stronger in some states than in others. As the transitional theorists have described many states going through the transition process, their emphasis has been on the economic and political changes the state goes through. This study adds another dimension, the dimension of media going through the transition process and becoming more or less commodified in the process. This study of *Cosmopolitan* magazine illustrates that media in Russia are a limited commodity and will not be fully commodified until major policy changes are made.

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The Gratifications of Pager Use: Fashion, Sociability and Entertainment

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Running Head: THE GRATIFICATIONS OF PAGER USE

The Gratifications of Pager Use: Fashion, Sociability and Entertainment

Abstract

The results from a proportionate stratified random sample survey of 883 college students show that fashion & status were the strongest intrinsic motive for using the pager followed by sociability and instrumental factors such as entertainment, information-seeking and utility. Fashion & status was a unique motive because its function is linked to the process of social integration. The *fewer* messages respondents sent, the *more* likely they felt that the purpose in having a pager was to make a fashion or status statement. However, utility was not found a significant predictor of any paging behavior among the students.

Introduction

Once a highly personalized communications medium like the telephone, the pager is evolving increasingly into a mass-media-like electronic medium in the marketplace where users can obtain informational and entertainment services in addition to sending and receiving messages. In some countries, pagers are becoming a highly popular technology as users can receive a short voice message without the aid of a telephone.[1] In collaboration with CNN, PageNet, for example, allows users of pager services to read headlines and summaries of news stories in eight categories free of charge. Domestic and world news, stock market updates, business news, weather, sports, show business news and features are all appearing on the alphanumeric display of their pagers.[2] Fueled largely by a tremendous increase in competing paging service suppliers and a new generation of innovative paging products, the pager has been widely adopted among executives and professionals on the go. Over 34 million Americans in 1996 used pagers, an increase of 20 million over 1993.[3] In a new media penetration survey in one of the world's densest populations, 27% of Hong Kong residents had pagers.[4] Many of them are parents, teenagers, and college students. In another study of a convenience sample of 238 students in a Hong Kong university, the adoption of pagers was as high as 86%.[5] Convenience and affordability are the two most often mentioned reasons why students chose to have a pager.

Bearing much resemblance to a mediated interpersonal communication technology - the telephone in purpose - keeping in touch, studies on the pager, however, are few, if any. Like research on the telephone, it was the least studied of all instruments of communication.[6] The goal of this study is to empirically examine the role of the pager in social and informational communication processes in the context of mediated interpersonal communication. As pagers begin to provide more media-like services, such a study will provide insights into users' motivation for pager use and paging patterns from an uses and gratifications perspective.

Theoretical Conception and Literature Review

Uses and Gratifications. Research in the uses and gratifications tradition has examined the gratifications associated with the use of television, newspapers, magazines, VCRs, electronic mail, and viewing of reruns, graphics horror and erotica, among others.[7] The uses and gratifications approach assumes audience activeness in media selection and use. The concept of active audience implies utility, the uses people have for communication; intentionality, or prior motivation that directs communication behavior; and selectivity, or prior interest and desires that affect communication choices and content.[8] The general theoretical conclusion from uses and gratifications studies is that the gratifications sought motivate the use of a particular medium in audience. Gratifications sought are expressed as functions of beliefs and evaluations of the audience, they seek an outcome mediated by the expectancy of obtaining that outcome. And gratifications the audience obtains are viewed as the perceived outcome of engaging in particular behavior.[9] Research in uses and gratifications of pagers is important because it is the first step to describe and to explain how pagers are perceived and used. Furthermore, such research can shed light on how gratifications change with new communication technologies in comparison to existing technologies such as the telephone.

Previous Research on Telephone Uses. New media uses may complement uses of existing media. Previously identified uses of existing communication technology may apply to new media. Therefore, to study the motives for using the pager, a review of studies on why people use the telephone in the literature is desirable. Keller[10] and Noble[11] identified two types of telephone use: intrinsic (social) and instrumental (task-oriented). They found that domestic intrinsic calls made and received outnumbered instrumental ones. Intrinsic use of the telephone was reported higher among women and people who were more concerned about family contact. In addition, having a telephone helped owners feel less lonely and more secure. In another study, Noble[12] found that convenience, time saving, ongoing contact with family and friends, gossip, overcoming loneliness and isolation, overcoming distances, saying things people would rather not say face-to-face, information access without emotional interplay, avoiding small talk (as in face-to-face), easier venting of feelings, and a sense of security were other gratifications sought by most telephone users. Williams, Dordick and Jesuale[13] also found support for intrinsic and instrumental functions of the telephone. Moreover, they found the entertainment function of the telephone particularly salient for adolescents. Claisse and Rowe[14] reported similar motives and suggested three primary motives of telephone use: (1) managing (38% of calls), including making appointments and the like; (2) informing (38% of the calls), or getting or giving information; and (3) discussing (27%), or conversing to basically exchange news. Accordingly, Claisse and Rowe[15] conceptualized two motives of telephone use: (1) the functional motive which is a goal-directed behavior such as management of activities, ordering goods, or planning schedules; and (2) relational motive which entertains affective relationships such as exchange of news and chatting. Similar to Noble's findings, their study also found that women phoned twice as often as men and more for social motives.[16] Greater telephone enjoyment was reported among women, single people, the lesser educated, lower income earners, older persons, unemployed and blue collar workers, and the unmarried.

Based on these conceptual dimensions of gratifications sought in the use of the telephone, the present study seeks to expand previous research by asking one important question: Is the pager a technology that provides uses and gratifications dissimilar to those associated with telephone use? Specifically, three research questions were raised:

1. What kind of gratifications are most likely to be sought through pager use?
2. How users differ in gratifications sought from the pager?
3. To what extent gratifications can predict paging behavior; and in what ways?

Method

Pager Gratifications Measures. O'Keefe and Sulanowski,[17] Dimmick, Sikand and Patterson,[18] and LaRose and Dordick[19] reported sociability, instrumentality, reassurance, entertainment, acquisition, and time management were some of the common motives for the use of the telephone. This study assumes these motives can be applied for pager use. However, as an innovative and newer communication technology, the pager may involve other motives besides those previously defined gratification dimensions. Therefore, this study intends to identify the gratifications uniquely associated with this technology. To do this, two pilot studies were conducted to refine gratifications items in pager uses. A total of 45 statements that reflected the different categories of reasons for using pagers were tested. The items included a broad gratification dimensions such as sociability, social circle building, social tie, information seeking, utility & instrumentality, entertainment, security and privacy, and fashion & status. Thirty-two items survived pretesting based on two convenient samples of 107 and 70 students respectively. Items that were found repetitive or ambiguous were eliminated. Respondents were asked to rate those 32 items on a 5-point Likert Scale, where 1 means strongly disagree with the reasons for using pagers and 5 means strongly agree.

Paging Behavior Measures. In addition to gratifications items, respondents were also asked how long they owned a pager and the number of messages they *sent* and *received* in a *typical day*. Unlike the use of a telephone, pager use is different because sending a message requires the use of a regular telephone, while receiving a message does not. Thus, sending messages through pagers is much involved and initiative-taking as compared to receiving messages which is simple and passive. As such, the amount of page messages *sent* and *received* may be functions of different uses and gratifications which differ from individual to individual. As this study is targeting university students, it is assumed that there are differences in reasons for academic-related and non-academic-related pager uses. Accordingly, respondents were asked how many "*academic-related messages*" they *sent* and *received* in a *typical week* and how many were for "*non-academic reasons*."

Sample and Sampling Procedures. Questionnaires were completed by 883 university students in a large Hong Kong university in the Fall of 1996. Respondents were from a proportionate stratified sample drawn with a multi-stage stratified sampling scheme. The university has seven colleges which consist of 49 departments and programs. Academic departments were randomly selected from a stratified list of large, medium, and small departments or programs in the first stage. Departments were considered large if they have 300 students or more, medium if they have 300 to 100, and small if fewer than 100 students. The largest department was professional accountancy with 566 students and the smallest was medical science research program of nine. After stratification, there were eight large, 27 medium, and 14 small departments or programs at the university. In order to draw a proportionate stratified sample from these 49 departments, two large, five medium and two small departments were randomly selected. The next stage was to select classes from a stratified list of large, medium, and small classes offered at each of the selected departments. Large class was those enrolled 80 or more students, medium with 21 to 79, and small when a class has 20 students or fewer. Using this multi-stage sampling technique, a total of three large, 22 medium, and four small-sized classes were randomly selected. As the size of departments and the number of students in class were mostly of medium size, medium-sized departments and classes were proportionately over-drawn to ensure the proper representation of the stratification variable and to enhance the overall representativeness of the sample.

Survey questionnaires were administered in class with prior permission of the instructor. An alternate class of similar size was used when instructor refused to participate. A total of 1,122 students from the multi-stage stratified random sample of 1,659 completed the survey with a completion rate of 67.6%. To further enhance randomness to the sample and to reduce sampling error to a minimum, one more systematic random sampling procedure was performed before the sample was finalized. That is, every fifth of the 1,122 completed questionnaire was discarded. The final sample size was thus 883 with 622 pager owners (69.4%) and 261 non-owners (30.6%).

The sample was 47.5% male and 52.5% female, ranging in age from 18 to 33 (M=19.89, SD=1.34). Most students were freshmen (52.7%) followed by sophomores (34.2%), juniors (9.6%), and seniors (3.4%). The mean family monthly income was US$2,338 with 41.2% living in the dorm and 58.8% off campus. Only the owners were included for subsequent analysis (N=622).

Results

Gratifications Sought through Pager Uses. To answer the first research question that concerns what gratifications are most likely to be sought through pager use, principal components factor analysis was performed to determine the potential groupings of items across respondents. Five factors emerged with eigenvalues greater than 1.0, explaining 45% of the total variance. Varimax rotation was used to better account for expected correlation among factors (See Table 1).

(Insert Table 1 about here.)

The first factor, fashion & status, had an eigenvalue of 6.3 and explained 19.5% of the total variance. It consisted of six items that marked using pagers for feeling being a grown-up and looking stylish and fashionable among their peers. The standardized Cronbach's alpha for this factor was .84. The second factor, sociability (eigenvalue=3.0, 9.3% of variance), was composed of eight items that reflect using pagers for instrumental reasons as well as for affection reasons. Items for confirming and scheduling appointments loaded highest on this factor, followed by endearment, surveillance, and inclusion.

Entertainment was the third factor (eigenvalue=2.0, 6.4% of variance), included also eight items reflecting the joy and pleasure derived from using pagers such as having fun, playing tricks, asking for a date, and helping pass the time. The standardized alpha for this and the second factor were both .74. The fourth factor, information-seeking (eignevalue=1.6, 5.1% of variance), demonstrated the pager as a mass medium which provides consumer information such as horse race and lottery results, stocks, cinema schedules, news headlines, weather & traffic conditions, and up-to-date social events. The standardized alpha was .72. The last factor was the utility factor (eigenvalue=1.6, 4.9% of variance), which showed many utilitarian functions of the pager from handling many brief messages, storing old messages, serving as an alarm clock, to as a means to avoid verbal face-to-face communication. The standardized alpha for this factor was .51.

The sociability, entertainment, and utility factors were similar to those reported by O'Keefe and Sulanowski[20] and Dimmick, Sikand and Patterson[21] in the uses and gratifications of the telephone. However, this study found fashion & status the strongest intrinsic motive for the use of pagers. The instrumental use of pagers as a means of entertainment, information-seeking, and utilitarian device also clearly demonstrated the importance of pagers as a mediated mass communication tool among college students.

Demographic Differences in Gratifications Sought from Pagers. Regression analysis in Table 2 using the gratification factors as dependent variables indicates that income was the only predictor of using pagers as a statement of fashion and status. Respondents with less family income tended to agree more with this gratification. Unlike mobile phone which is too expensive and beyond the reach of most college students, owning a pager, even if it is for fashion or status purpose, has become much more affordable. The result also shows that female students used pagers for the sociability function and younger students felt that having a pager was very entertaining and could be used to relieve boredom. The entertainment function supports similar finding in gratification sought by adolescents in the use of the telephone.[22] Students in junior standing and from a low income family tended to agree that pager was an information provider. The information-seeking gratification included the ability of the pager to provide consumer information such as horse race, lottery results, stocks, film schedules, and up-to-date news headlines. No significant demographic predictor was found to be associated with the gratification factor of utility.

(Insert Table 2 about here.)

Males and females differed significantly on only one motive for using the pager. Females were more likely to report using pagers for sociability (M=32.86, SD=4.21) than males [M=31.5, SD=4.14, t(584)=3.91, p<.01]. Although only approaching significant, males scored higher on fashion & status (M=15.26, SD=4.52) and on information-seeking (M=17.10, SD=3.34) than females [M=14.62, SD=4.32, t(640)=1.77, p=.07] and [M=16.61, SD=3.43, t(594)=1.75, p=.08] respectively.

Gratifications Motives as Predictors of Paging Behavior. Respondents reported that they have been using the pager from 15 days to nearly seven years (M=10.33 months, SD=10.19). When asked how many messages they sent and received in a typical *week*, they reported a mean of 35 messages with 16 sent and 19 received. For *non-academic reasons* alone, they seemed to page more, with a mean of 26 in a typical *week*, than for *academic reasons* with a mean of 10. On average, they received 4.23 messages and sent 3.5 messages on a typical *day*. They also reported that they sent 4.46, received 5.18 page messages on a typical *week* related to their study while sent 11.58 and received 14.5 page messages unrelated to their study.

The hierarchical regression analyses in Table 3 first show the independent effect of each demographic predictor on paging messages sent and received for all purposes, for academic, and for non-academic reasons, followed by the independent effect of each gratification factor on paging behavior while controlling for demographics as a block. The results indicate that *female* students sent and received more paging messages for all purposes as well as for academic and non-academic reasons alone. As a homogeneous student sample, age appeared to be an ineffective predictor for the number of paging messages sent or received regardless of purpose. But family income was a significant predictor for pager use, with higher family income students sending and receiving more specifically for non-academic as well as for all paging purposes. Not surprisingly, students living on campus used the pager more frequently than those living at home. The amount of variance explained by demographic characteristics alone ranged from 7% to 13%.

(Insert Table 3 about here.)

Gratification variables were entered next into the regression equations separately so as to isolate their individual contribution to the variance explained. Sociability was found to be a consistently significant predictor for almost all pager use: sending and receiving for all purpose, receiving for academic purpose, and sending and receiving for non-academic reasons. The more one sent and received, the more it was for social motive. No significant relationship was found between sending academic-related messages and any gratification factors. Fashion and status, the strongest factor identified in factor analysis for gratification sought by college students, was found negatively associated with messages sent for both all purpose and non-academic purpose alone. Although the findings were only significant at the $p<0.1$ level, it suggests that the *fewer* messages respondents sent, the *more* likely they felt that the purpose in having a pager was to make a fashion or status statement. When respondents paged more, they were seeking other gratifications beyond fashion and status. Entertainment was also found to be a significant predictor for pager use particularly for non-academic reasons. Sending a message unrelated to school work thus indicates that respondents were motivated by the joy and pleasure of playing tricks on people, having fun, using pagers to pass the time, or to relieve boredom. A negative relationship was also found for information-seeking gratification for pager use. This particular result suggests that the more respondents used the pager for other purposes, the less likely they would use the pager for information-seeking. Finally, utility was not found a significant predictor of any paging behavior.

Similar to the studies on telephone, sociability appeared to be the strongest gratification measure positively and significantly associated with pager use. The more sociability and entertainment gratifications sought, the more pager use, and the less other gratifications such as desiring to make a fashion & status statement and information seeking. As a result, gratification factors emerged as important predictors of paging behavior when controlling for demographics. The regression models were able to explain 9% to 17% of the total variance and the change in R square ranged from 2% to 6% when gratifications factors entered the equations.

Finally, in addition to examine the differences in gratification sought between paging behavior for academic and non-academic reasons, this study also looked at if light and heavy users of pagers sought different gratifications. A light user was defined as a respondent who sent and received seven or fewer messages in a typical day whereas heavy user sent and received more than seven. As indicated in Table 3, almost no variability was found with the paging for academic purpose group, this group was excluded from further analysis.

Table 4 shows that light and heavy user of pagers seemed to differ significantly in the gratification dimensions. Sending a message for any purpose, light users tended to be associated with social, information-seeking and utility reasons; while no gratifications were related to heavy users. Light users may regard the pager as a novelty, they tended to use the device for different gratifications. In comparison, sophisticated or heavy users tended to be very accustomed to the technology, they might use the device for no particular gratification or motives. For receiving messages for all purposes, both light and heavy users seemed to receive for sociability reasons and to a certain extent for information-seeking reason for the light users. Similarly, being an active and initiative taking behavior, sending messages for non-academic purpose, light users clearly showed a variety of motives ranging from sociability to entertainment, information seeking and utility (significant at p<0.1 level). Similarly, sociability was the strongest reason why heavy users sent or received pages for non-academic reasons and information-seeking for light users. Surprisingly, fashion & status had no effects on neither the light nor the heavy users. The result shows that again gratification factors were important in predicting pager uses among college student with light users feeling that the pager is a novelty and a wide variety of motives for their use. Heavy user were much accustomed to the device and intrinsic social reasons were most common in predicting their use. The amount of R square increase ranged from 3% to 9% and the amount of total variance explained ranged from 11% to 21%.

Demographically, light and heavy users who sent and received messages for all purpose were often female and from a high-income family. Residence was also a strong predictor for heavy users of the pagers for all purpose, the more heavy users sent and received pages , the more likely they were living on campus. For non-academic purpose, light and heavy users from high-income family tended to send more paging messages and while light users also received more.

(Insert Table 4 about here.)

Conclusions and Discussion

This study identified five major motives for using pagers: fashion & status, sociability, entertainment, information-seeking and utility. It can be concluded, first, that the pager facilitates students to integrate into their social networks because having a pager is a statement to their peers that they are part of the group in status and in fashion. Second, the pager is a helper for daily appointment and confirmation of social and professional meetings. In addition, it also is an instrument to strengthen social ties by expressing affection and inclusion. Third, the pager is a device for entertainment. Fourth, the pager is a mass medium for users to seek the latest consumer information. Fifth, the pager is a utilitarian device.

With the exception of fashion & status, these intrinsic (social) and instrumental (task-oriented) motives are consistent with most of the studies in the gratifications of the telephone use drawn from the literature.[23] Most of these motives were strongly endorsed and had much validity. The fashion & status dimension, however, seems unique. Pager uses among students are for making a fashion statement of being stylish and fashionable; and making a status statement of feeling that they are a grown-up, an university student, and no longer in high school. This motivation reveals another factor in the social integration process. That is, the pager allows the students to feel that they are connected in their friendship networks and have a sense of participation or belonging to a particular social group. Interestingly, having a pager is similar to having an advanced pocket calculator among university engineering students in the 70's.

Sociability, the second strongest motivation in having pagers and most effective in predicting paging behavior, explains much of the gratifications sought for sending and receiving messages by light and heavy pager users for all purpose, academic only, as well as for non-academic reasons. Generally speaking, the greater the motive for sociability, the more one sends and receives messages. In addition, for non-academic purpose, light users and especially the young (e.g. adolescence) seemed to find entertainment motive attractive for sending messages. This motive is also consistent with earlier studies on the entertainment function of the telephone.[24]

This study also found that the pager is a novelty particularly for the light users and therefore they found a wide variety of motives for use. Light users may also be very utility-conscious and well aware of the available function alternatives for enhancing their entertainment, information and utilitarian experiences. Heavy user were much accustomed to the technology and were found to use the pager for no particular gratifications or motives; however, intrinsic social reasons were most common in predicting their use. The negative relationship between information-seeking motive and pager use indicated that the higher the frequency of use, the more likely it was for motives other than seeking information. This gratification displacement effect appeared most often among the light users. The concept of gratification displacement should be developed to further explore the role of the pager in mediated communication in future research.

In the findings of gender differences in gratifications and paging behavior, this study consistently found that female tended to page more. When sociability was treated as a dependent measure using demographics as predictors, regression models also showed that female was the strongest predictor of use. Studies by Arliss[25] and Haas and Sherman[26] support this finding that women place more value on same-sex talk than do men; and women tend to enjoy talking while men prefer engaging in sports or other activities that discourage lengthy verbal interactions. These findings complement and explain the higher sociability gratifications derived by female students from using pagers.

Finally, the results of this study indicate that pager users seek a mix of interpersonal and mass media gratifications. Interpersonal motives appear to dominate as sociability motive was found to be the strongest predictor. Increasingly, mass media gratifications will become equal in importance when more information services are available from competing paging service suppliers. Unlike the telephone, which is not a content-oriented medium, the pager now functions as a mass medium which provides content for the audience like other traditional mass media such as radio. The implications from the increasing capability of disseminating information via the pager is critical because the gatekeeping function of this new medium has never been clearly defined. Future research should focus on the impact of this least regulated mass medium. As this study targeted university students, findings should not be generalized to the general population. One area of possible difference between student users and non-student users may be that business people may obtain more gratifications in utility and less from fashion & status in pager use. Therefore, future studies can expand it by exploring if there are any additional motives that should be incorporated based on a cross-section sample.

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Table 1:
Factor Analysis of Pager Gratifications

	Fashion & status	Sociability	Entertainment	Info-Seeking	Utility
The pager is very helpful for me ...					
1. to look stylish	**.79**	.05	.11	.14	-.00
2. to feel that I am a grown-up	**.79**	.07	.15	.09	-.03
3. to show that I am already a university student	**.75**	-.03	.15	.00	.18
4. to not look old-fashioned without a pager (R)	**.72**	.03	.13	.15	-.03
5. to show that I am not a secondary school student	**.69**	.11	.20	.06	-.03
6. to look fashionable	**.53**	-.13	.32	.03	.16
7. to confirm appointments	-.08	**.71**	.04	-.00	.15
8. to schedule appointments	.18	**.69**	.05	.03	.08
9. to tell friends and family I am all right	.08	**.66**	-.02	.18	.02
10. to get together with friends more to eat out	.00	**.62**	.12	.07	.33
11. to organize social events	.04	**.57**	.18	.11	-.03
12. to feel safe and secure in case of emergence	-.05	**.48**	.19	.21	-.05
13. to keep in contact with people I have no time to meet	.01	**.42**	.16	.08	.10
14. to feel involved with what's going on with other people	-.01	**.32**	.48*	.07	-.07
15. to have fun	.18	-.01	**.70**	.16	.14
16. to get companionship with people I know	.10	.06	**.69**	.03	-.02
17. to enjoy the pleasure of contacting people	.13	.11	**.59**	.04	.19
18. to play tricks and to joke with friends	.12	.00	**.49**	-.03	.41
19. to ask for a date avoiding direct face-to-face contact and possible embarrassment	.20	.16	**.49**	.08	-.18
20. to get a feeling that people care about me from encouraging messages and expressions of love	.16	.33	**.46**	-.01	.17
21. to relieve boredom by contacting people	.16	.24	**.46**	.09	.13
22. to help pass the time	.19	.03	**.43**	.30	-.05
23. to find out consumer information such as horse race, lottery results, stock, and films in cinema	.17	-.05	.06	**.78**	.09
24. to seek information such as news headlines	.01	.20	.06	**.71**	.09
25. to keep up-to-date with social events	.13	.07	.21	**.69**	-.00
26. to seek information such as weather/traffic condition	-.01	.27	-.01	**.64**	.05
27. to tell time	.09	.11	.07	**.46**	.17
28. to call people less because many brief messages can be handled by pagers	.03	.13	.07	.10	**.60**
29. to use it as an alarm clock	.02	-.05	.01	.21	**.60**
30. to allow people to find me easily when they need to	-.08	.24	.04	-.03	**.53**
31. to store old messages	.04	.06	.12	.31	**.42**
32. to avoid verbal face-to-face contact	-.36	-.17	.06	.03	**-.42**
Eigenvalue	6.3	3.0	2.0	1.6	1.6
Variance explained	19.5%	9.3%	6.2%	5.1%	4.9%
Cronbach's alpha	.84	.74	.74	.72	.51

* This item loaded on 2 factors. N = 622

Table 2:
Regression Analysis of Gratifications of Pager Use Using
Demographic Variables as Predictors

Predictors	Fashion & Status	Sociability	Entertainment	Information Seeking	Utility
Demographics					
Gender (Male)	-.07	-0.13**	.01	.05	-.05
Age	.07	.02	-.15*	.01	-.03
Income	-.09*	-0.02	-.04	-.09*	-.01
Classification	-.05	-0.07	-.03	-.11#	-.02
Residence (Dorm)	-.04	.06	.05	-.05	.06
R^2	.02	.03	.03	.03	.01

Notes: Figures are standardized regression coefficients for variables entered hierarchically. R^2 is expressed in percent of variance accounted for.
# p<=0.1; * p <= .05; ** p <= .01; N=622

Table 3:
Regression Analysis of Pager Use Using Demographic and Gratification Variables as Predictors

	All Purpose		Academic Purpose		Non-Academic Purpose	
Predictors	Send	Receive	Send	Receive	Send	Receive
Block 1: Demographics						
Gender (Male)	-0.28**	-0.23**	-0.24**	-0.26**	-0.23**	-0.16**
Age	-0.06	-0.04	.03	.05	-0.09#	-0.08
Income	.16**	.11*	-0.02	-0.05	.21**	.17**
Residence	.18**	.17**	.11*	.11*	.17**	.16**
R^2	.13	.09	.07	.08	.12	.07
Block 2: Gratifications						
Fashion & Status	-0.11#	-0.07	-0.10	-0.06	-0.10#	-0.06
Sociability	.16**	.21**	.09	.12*	.17**	.20**
Entertainment	.07	.06	-0.04	-0.03	.13*	.09
Info-Seeking	-0.12*	-0.11#	-0.06	-0.04	-0.12*	-0.10#
Utility	.04	.01	.03	-0.01	.04	-0.01
R^2	.17	.11	.09	.10	.17	.13
Change in R^2	.04	.03	.02	.02	.05	.06

Notes: Figures are standardized regression coefficients for variables entered hierarchically. R^2 is expressed in percent of variance accounted for by the corresponding block.
# p<=0.1; * p <= .05; ** p <= .01; N=622

Table 4:
Regression Analysis of Light and Heavy Users of Pager Using Demographic and Gratification Variables as Predictors

Predictors	Light Users (N=294)				Heavy Users (N=328)			
	All Purpose		Non- Academic Purpose		All Purpose		Non- Academic Purpose	
	Send	Receive	Send	Receive	Send	Receive	Send	Receive
Bloock 1: Demographics								
Gender (Male)	-0.13#	-0.12#	-0.06	-0.04	-0.27**	-0.17*	-0.22**	-0.10
Age	-0.02	-0.03	-.10	-.12#	-0.08	-0.05	0.09	-0.07
Income	.22*	.29**	.33**	.40**	.17*	.04	.19*	.09
Residence (Dorm)	.08	.03	.04	.06	.08**	.16*	.07	.14#
R^2	.07	.10	.12	.17	.11	.07	.09	.04
Block 2: Gratifications								
Fashion & Status	-0.08	-.05	-0.06	-0.05	-0.15	-0.09	-0.15	-0.06
Sociability	.20*	.19*	.18*	.12	.10	.19*	.15#	.22**
Entertainment	.07	.00	.19*	.09	.08	.11	.15	.12
Info-Seeking	-0.19*	-0.19*	-0.19**	-0.16*	-0.03	-0.03	-0.06	-0.06
Utility	.16*	.07	.11#	.06	-0.05	-0.10	-0.01	-0.08
R^2	.14	.15	.21	.20	.14	.12	.15	.11
Change in R^2	.07	.05	.09	.03	.03	.05	.06	.07

Notes: Figures are standardized regression coefficients for variables entered hierarchically. R^2 is expressed in percent of variance accounted for by the corresponding block.
# p<=0.1; * p <= .05; ** p <= .01

THE CONSTRUCTION OF THE NEWS: A SURVEY OF THE ITALIAN JOURNALISTS

by

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THE CONSTRUCTION OF THE NEWS: A SURVEY OF THE ITALIAN JOURNALISTS

Abstract

The aim of this paper is to try to understand the view held by Italian journalists of news construction (selection and coverage of the events), and how this view influences the presentation of the news itself, while focusing on the controversial phenomenon of *spettacolarizzazione*, the sensationalistic presentation of the news item. The findings underscore the increasingly urgent need to analyze more in depth the issues of news production, and consequently of its effective quality standards.

THE CONSTRUCTION OF THE NEWS: A SURVEY OF THE ITALIAN JOURNALISTS

The focus of the study

The issue of news reporting quality standards has been at the center of debate for several years. The aim of this paper is to try to understand the view held by Italian journalists of news construction (selection and coverage of the events), and how this view influences the presentation of the news itself, while focusing on the controversial phenomenon of *spettacolarizzazione*, the sensationalistic presentation of the news item.

The problem is whether the media exert an influence on the attitudes of the public and if this influence is negative with respect to citizen's relationship with the public life. Mass Communication researchers are debating the degree of media power and influence of public opinion. The problem is that findings on this research issues are often statistically weak and contradictory (Graber, 1993a; Graber, 1993b). The only well established research tradition in political communication is the agenda-setting research (McCombs and Shaw, 1972; Weaver, 1987; McCombs and Protess, 1991), which has been able to find a robust link between what people think is important and what media tell them to think about . But this seems to be only half of the answer that we are looking for, since there has been little success in establishing a relationship between media content and public opinion, beyond learning processes, to explain persuasion effects and attitude change (Weaver, 1987; McCombs and Protess, 1991).

Two are the major areas of interest concerning media agenda-setting and election research in Weaver's review (Weaver, 1987):

1. The role of media in filtering and shaping social reality, through their selection and presentation of social events;

2. The role of media in making certain issues more salient than others.

Both are important phenomena, but unfortunately most of research "has focused on testing the second assumption .... and yet in some ways the first assumption is just as crucial to the idea of media agenda-setting as the second,..... if the press is acting mainly as a mirror or a transmission belt for various segments of the society, then it is not setting any agendas... it is simply passing on agendas set by others." (Weaver, 1987: 176).

As also McCombs et al. argued: " it is one thing to demonstrate that media emphasis on certain issues (and neglect of others) has an effect on how important these issues are considered by the public, but it is quite another thing to demonstrate that the perceived salience of an issue matters in terms of public opinion, behavior and policy". (McCombs et al. 1991: 18).

In line with the recent development of the agenda setting research tradition (Carmines and Stimson, 1989; Iyengar, 1990; Weaver, 1991; McCombs in Bentivegna 1996) the emphasis placed by the media on the sensational and conflicting aspects is today the subject of numerous studies that study how the use by journalists of cognitive frames with a high symbolical content exerts an influence on the reference frameworks used by the general public in interpreting events. The phenomenon is not so much a matter of explicit or deliberate attempts at influencing the opinion of the individual prevalently due to the political orientation of a newspaper or of single journalists, but rather of implicit conditioning mechanisms which nonetheless have a significant impact on the processes involved in the formation and modification of opinions, and therefore on the community at large (Semetko et al.1991). The view of politics as a type of "horse race", which does not coincide with that generally held by the public, who indeed see politics as means of solving problems, can generate in the public a feeling of detachment and resignation towards political figures, defined by Patterson (1993) as *alienation*. In her analysis of the Italian corruption scandal Tangentopoli (the collusion of traditional leading political parties with vested private interests), Mandelli (1996) found support to the hypothesis that the symbolic frames of the news coverage exerted an influence on the political inclinations of Italian voters, and that this influence was a direct alternative to the traditional influence exerted by political parties.

Given that a correct relationship between the institutions and the general public is at the heart of modern democratic societies and in the light of these findings, the question arises whether journalists are actually aware of the influence they hold over the public.

The aim of this paper is therefore to carry out an initial investigation of the motives and attitudes of Italian journalists towards news construction and the issue of sensationalism.

Literature review

To review the fundamental functions attributed to news reporting and consequently the presentation of information by mass media studies, the starting point is certainly a consideration of the role played by the journalistic representation of reality, a role that emerged at the same time as the currently held concept of *news*. The task is to make explicit the complex question of the legitimate representation of the social world - as it is, who is assigned to represent it and by means of which choices and procedures. The first answer to these questions was given during the last century by a descriptive model of reality without any interpretation; reality coincided with external phenomena, while news reporters were merely the legitimate "observers" and "photographers" who held a mirror up to reality (Shudson, 1978). Once the illusory nature of this concept (due on the one hand to the mechanism of news selection that prevent the reporting of thorough information, and the variable, inevitable filtering by perceptive subjectiveness; (Gans, 1979; Weaver, 1987) was recognized, reconsideration of the relationship between news and the social world became necessary. If the "act of making the news" becomes an act of building rather than simply describing reality (Tuchman, 1978), journalists must achieve the accreditation to do it. Various methods were adopted: on the one hand through the definition of accepted rules by the profession, the rules of the objective summary that guarantee the reliability of reported events (Shudson, 1978); on the other, the relationship with reality must be redefined, not limited to the simple description of events due to the inability of the individual to explain the complexities of the outside world, through the offer of a key to its interpretation, going beyond the mere reporting of events to interpretative reporting (McDougall, 1938,). With this approach, journalists take on the task of investigating, discovering and disclosing all aspects of reality by continually monitoring it (the "watchdog role", a concept which mainly emerged as a means to preventing the abuse of vested public powers; Curran, 1991).

So there are many models of journalism and news production. Factual or interpretative reporting can be achieved through the use of a limited or multiperspectival view (Gans, 1979) and with the accentuation or negation of sensational or spectacular elements. In this regard, there was an international upsurge in the late 1980s in the debate over news quality, especially in the field of political journalism, with an attempt at verifying the existence of a link between the declining standards of public administration with declining standards in journalism, thereby identifying the responsibility of the mass media (Lang and Lang, 1983; Pasquino, 1984; McCombs, Einsiedel and Weaver, 1991; Mancini, 1991; Page and Shapiro, 1992; Mayer, 1993; Patterson, 1993; Mandelli, 1995).

A series of modern studies sees sensationalism as an essentially negative phenomenon (Patterson, 1993), while other authors have highlighted the at least partially positive effects of this approach. If we accept that the role of the media is to represent reality and help gain an enhanced degree of understanding of the outside world, though also that the time dedicated by individuals to acquiring information is decreasing, then journalists, when faced with issues considered of negligible public concern or distant from their daily experience, must account for two critical variables: the ability to attract attention (because the issue is considered of remote interest), and the accessibility/comprehension quota of the news - Graber, 1988 - (because the news is seen as difficult to understand). In the effort to attract the general public's attention and to simplify the news item, the aspects of sensationalism become a fundamental component of a certain informative model. In this case, emphasis is placed on the personal and moral side when reporting stories with a strong emotional impact, thereby reducing the cost/benefit ratio in the acquisition of information (Neuman et al., 1992).

Within the framework of the research traditional inaugurated by Antony Down, according to which individuals try to reduce the costs deriving from the gathering of information, the contribution made to the debate by Popkin and Dimock (in Bentivegna, 1996) is significant. The authors maintain that individuals make use of simplifying assumptions, the so-called "informative short-cuts", to evaluate complex information; and it is precisely at this stage that the positive role of news sensationalism comes into play. Its implicit mechanisms of simplification and tendency to personalize the event assist in representing a world that is easier to grasp. The emphasis placed on scandals and personal impact is partly the result of the poor standard of political awareness of citizens (Popkin and Dimock, in Bentivegna, 1996).

Once again, the emotional and sensational aspects can be construed as manifestations of popular culture (Shudson, 1978, Gans, 1979); this is not in itself damaging or negative, but as long as citizens of less-learned classes do not have the same facilities, education and roles as those of the more-learned social groups, news reports will continue to emphasize the dramatic and simplified aspects to attract that sort of audience (Gans, 1979).

The positive side of sensationalism cannot however be properly assessed without considering its potential negatives repercussions on the cognitive frame of the individual. In line with the studies conducted on the second dimension of agenda setting (McCombs, in Bentivegna, 1996), Mandelli (1996) showed that, in Italy, the use of elements with high symbolic content in news reporting influences the individual's values, which in turn affect voter's intentions, and that the pace of change of the frames used by journalists may well be one of the causes of the swinging inclination of voters.

The most recent developments in mass communication studies have nonetheless brought about the construction of an informative model, *civic journalism*, which attempts to involve the general public with means other than those used by sensationalism. The ability to generate interest in particular news is developed in two main ways: by sharing the task of agenda setting with readers/viewers; and through the construction of a relationship between the journalist and the community based on participation in public meetings, debates, focus groups, etc..

Methodology

In order to comprehend the view of Italian journalists in the process of news production, and in particular their motives and attitudes towards the issue of sensationalism, an empirical study was conducted on a sample group of 300. The journalists were selected at random from the general pool of professionals today active in daily newspapers and TV news programs in Italy. The sample was random and stratified: the first objective was to represent both newspaper and television journalists;

the groups were then sub-divided according to territorial coverage (national or local) and geographical area (North, Center, South, Islands).

The questionnaire was composed of closed questions (except for the last, which called for suggestions to improve news reporting standards). The analysis and interpretation of results were assisted by the numerous qualitative comments and points for discussion raised by the journalists during the interview, which were recorded by the interviewees. The 35 questions were divided into 3 main sections: the first section (questions 1 - 12) aimed at investigating the role of journalism in society; the second (questions 13 - 24) had the objective of defining reference procedures used in news production; while the third (questions 25 - 34) aimed at highlighting the instruments and parameters used for assessing the news item (questionnaire included). Some of the questions replicated the ones used in the survey on the American journalists by Weaver and Whiloit.

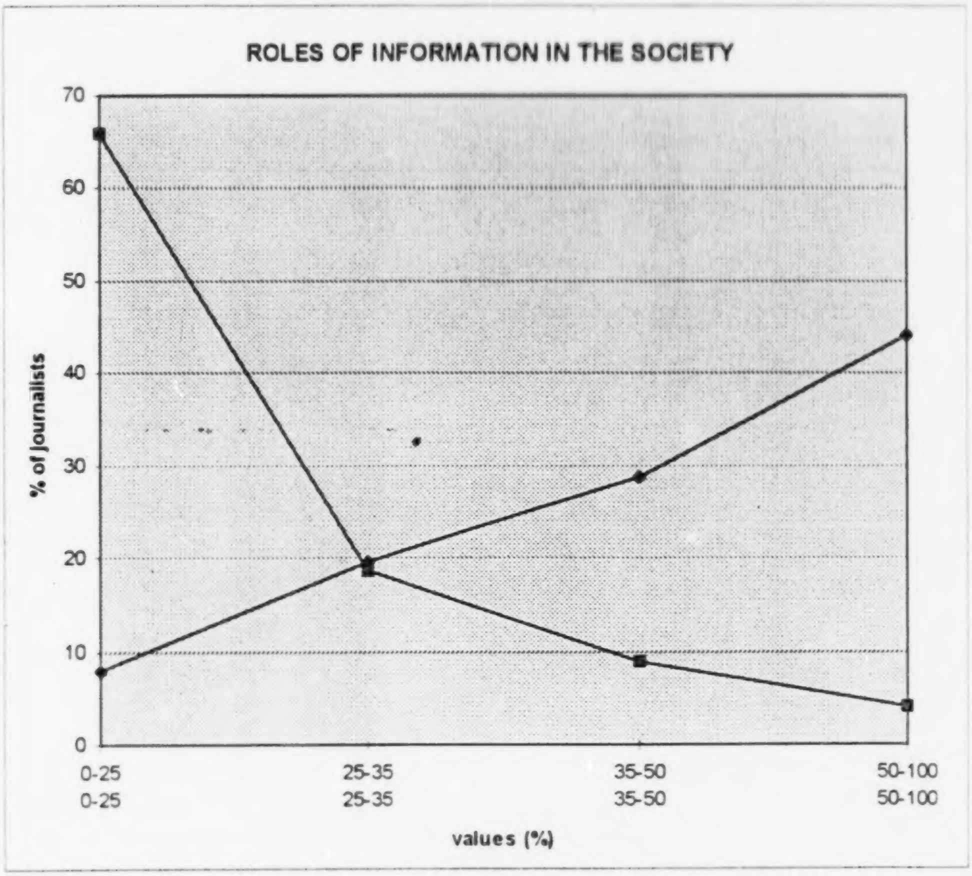
The telephone interviews were conducted between the 20/10/1996 and 20/12/1996, and had an average duration of 15-20 minutes. The interviewees were called at the workplace; despite the difficulties caused by their heavy work schedules, the journalists had a generally positive attitude to the study. Some however expressed diffidence, mainly towards the quantitative methodology of research, while refusals to take part in the study were only four of 300. Once all 300 interviews were completed, the data were stored and analyzed by the statistics processing program SPSS. Since the survey was elaborate in terms of analysis, only the preliminary analysis were performed and are presented in this paper. A results will be examined more in depth in following studies.

Results

Since the aim of this paper is to examine the opinion of Italian journalists towards the news production process with special attention to motives and attitudes towards news sensationalism, only the results specifically related to these issues will be considered.

The role attributed to news by the interviewees is inevitably the starting point of analysis, as they stated that news should represent reality in its entirety. The upshot was that journalists should select and cover the news product *autonomously* on the basis of this principle, that is without being influenced by the expectations of the general public, who might prefer to highlight some aspects (often of negligible importance) at the cost of others, leading to a distorted view of the outside world. The graph shows the percentage of importance attributed by the interviewees to their role in depicting reality in comparison to that of satisfying the community's need for information; the results seem to confirm the above.

GRAPH 1



Legend: —◇— Role = to represent the reality in its entirety
—□— Role = to satisfy the audience's needs for information

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TABLE 1: Role = to represent the reality in its entirety

Value label	Value	Frequency	Percent	Valid percent	Cum percent
	,00	9	3,0	3,0	3,0
	5,00	1	0,3	0,3	3,3
	10,00	3	1,0	1,0	4,3
	15,00	2	0,7	0,7	5,0
	20,00	7	2,3	2,3	7,4
	25,00	2	0,7	0,7	8,0
	30,00	24	8,0	8,0	16,1
	33,00	24	8,0	8,0	24,1
	35,00	9	3,0	3,0	27,1
	40,00	38	12,7	12,7	39,8
	45,00	7	2,3	2,3	42,1
	48,00	1	0,3	0,3	42,5
	50,00	40	13,3	13,4	55,9
	60,00	49	16,3	16,4	72,2
	66,00	1	0,3	0,3	72,6
	70,00	27	9,0	9,0	81,6
	80,00	11	3,7	3,7	85,3
	85,00	1	0,3	0,3	85,6
	100,00	43	14,3	14,4	100,0
	Missing	1	0,3	Missing	
	Total	300	100,0	100,0	

Valid cases =299 Missing cases =1

TABLE 2: Role = to satisfy the audience's need for information

Value label	Value	Frequency	Percent	Valid percent	Cum percent
	0,00	67	22,3	22,4	22,4
	4,00	1	0,3	0,3	22,7
	5,00	11	3,7	3,7	26,4
	10,00	47	15,7	15,7	42,1
	15,00	12	4,0	4,0	46,2
	20,00	47	15,7	15,7	61,9
	25,00	11	3,7	3,7	65,6
	30,00	31	10,3	10,4	75,9
	33,00	24	8,0	8,0	83,9
	35,00	2	0,7	0,7	84,6
	40,00	14	4,7	4,7	89,3
	45,00	1	0,3	0,3	89,6
	50,00	12	4,0	4,0	93,6
	55,00	1	0,3	0,3	94,0
	60,00	6	2,0	2,0	96,0
	65,00	1	0,3	0,3	96,3
	70,00	4	1,3	1,3	97,7
	80,00	2	0,7	0,7	98,3
	100,00	5	1,7	1,7	100,0
	Missing	1	0,3	Missing	
	Total	300	100,0	100,0	

Valid cases =299 Missing cases =1

Despite the significant autonomy in relation to the public in selecting news that emerges from the whole questionnaire, the journalists express a contradictory concept when most (90.62%) concur that the issues which they themselves consider relevant should coincide with those thought to be of importance by the general public (see graph and tables below).

TABLE 3 : Do the media agenda is the same of public agenda ?

Value label	Value	Frequency	Percent	Valid percent	Cum percent
yes	1,00	162	54,0	54,9	54,9
no	2,00	133	44,3	45,1	100,0
	Missing	5	1,7	Missing	
	Total	300	100,0	100,0	

Valid cases = 295 Missing cases =5

TABLE 4 : If it is truth, this coincidence of agenda is good ?

Value label	Value	Frequency	Percent	Valid percent	Cum percent
yes	1,00	154	51,3	95,7	95,7
no	2,00	7	2,3	4,3	100,0
	Missing	139	46,3	Missing	
	Total	300	100,0	100,0	

Valid cases =161 Missing cases =139

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TABLE 5: If it is not truth, this coincidence of agenda should be to exist ?

Value label	Value	Frequency	Percent	Valid percent	Cum percent
yes	1,00	116	38,7	87,9	87,9
no	2,00	16	5,3	12,1	100,0
	Missing	168	56,0	Missing	
	Total	300	100,0	100,0	

Valid cases =132 Missing cases =168

95.7% of 54% = 51,68 (coincidence of agenda exist and it is good)
87.9% of 44.3% = 38,94 (coincidence of agenda don't exist but it should be)

Total = 90.62

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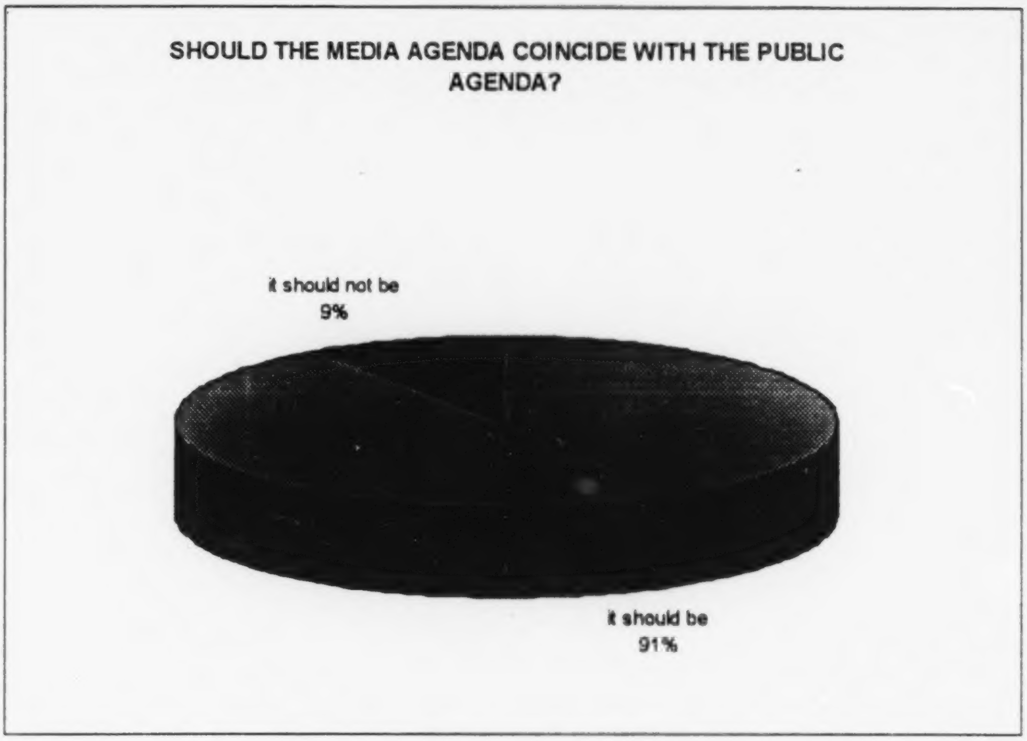
GRAPH 2


SHOULD THE MEDIA AGENDA COINCIDE WITH THE PUBLIC AGENDA?

An attempt can be made to interpret the meaning of this contradiction by considering the qualitative comments of the journalists. A majority of them said they want to reestablish a lost contact with the public not in terms of asking them to set the agenda, but in terms of having more sources of information in order to built the real agenda of problems. It would indeed seem no coincidence that the interviewees, when presented with a list of factors that actually exert an influence on the attributed relevance of news, indicated the sources of information as the most important. This highlights the importance of the news sources (especially political sources) on news selection and coverage, while assigning less relevance to public surveys. This reiterates the necessity for journalists of not being conditioned by the expectations of readers and viewers (see the graphs and the tables below).

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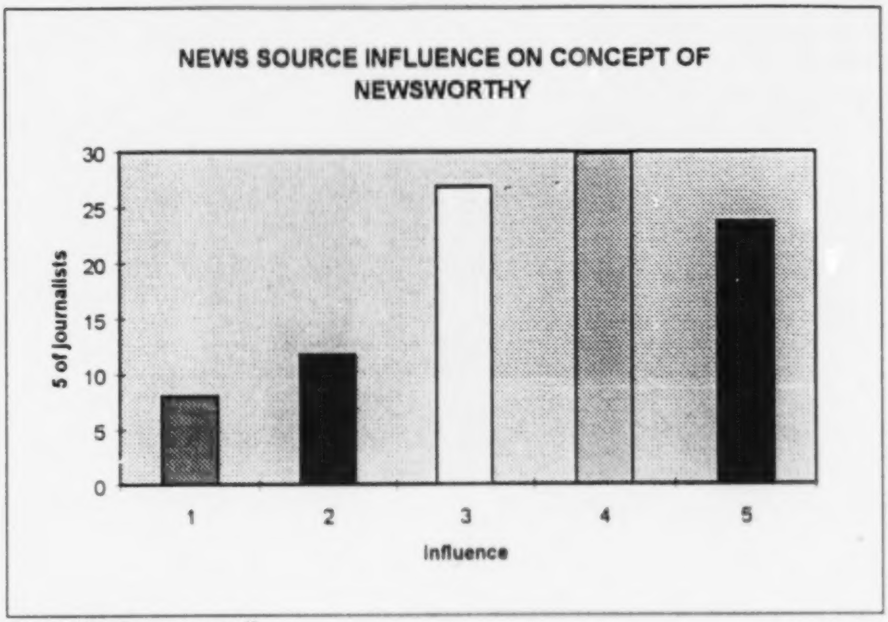
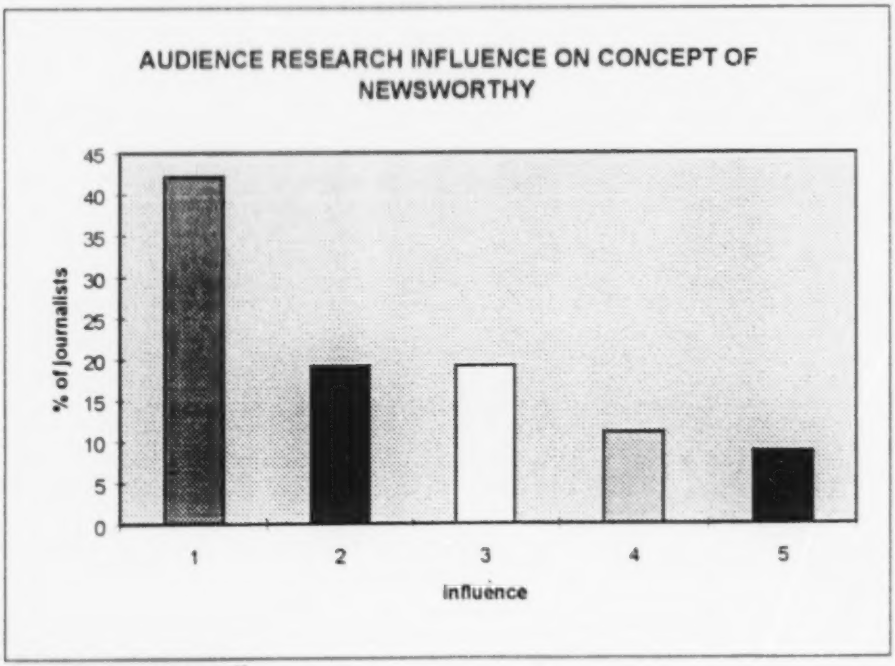
GRAPH 3



Legend : 1 = none at all
5 = a great deal

GRAPH 4



Legend : 1 = none at all
5 = a great deal

TABLE 6: News source influence on concept of newsworthy

Value label	Value	Frequency	Percent	Valid percent	Cum percent
	1,00	24	8,0	8,0	8,0
	2,00	35	11,7	11,7	19,7
	3,00	80	26,7	26,8	46,5
	4,00	89	29,7	29,8	76,3
	5,00	71	23,7	23,7	100,0
	Missing	1	0,3	Missing	
	Total	300	100,0	100,0	

Valid cases = 299 Missing cases = 1

Mean = 3,495 Median = 4,00 Mode = 4,00

TABLE 7: Audience research influence on concept of newsworthy

Value label	Value	Frequency	Percent	Valid percent	Cum percent
	1,00	126	42,0	42,1	42,1
	2,00	57	19,0	19,1	61,2
	3,00	57	19,0	19,1	80,3
	4,00	33	11,0	11,0	91,3
	5,00	26	8,7	8,7	100,0
	Missing	1	0,3	Missing	
	Total	300	100,0	100,0	

Valid cases = 299 Missing cases = 1

Mean = 2,251 Median = 2 Mode = 1

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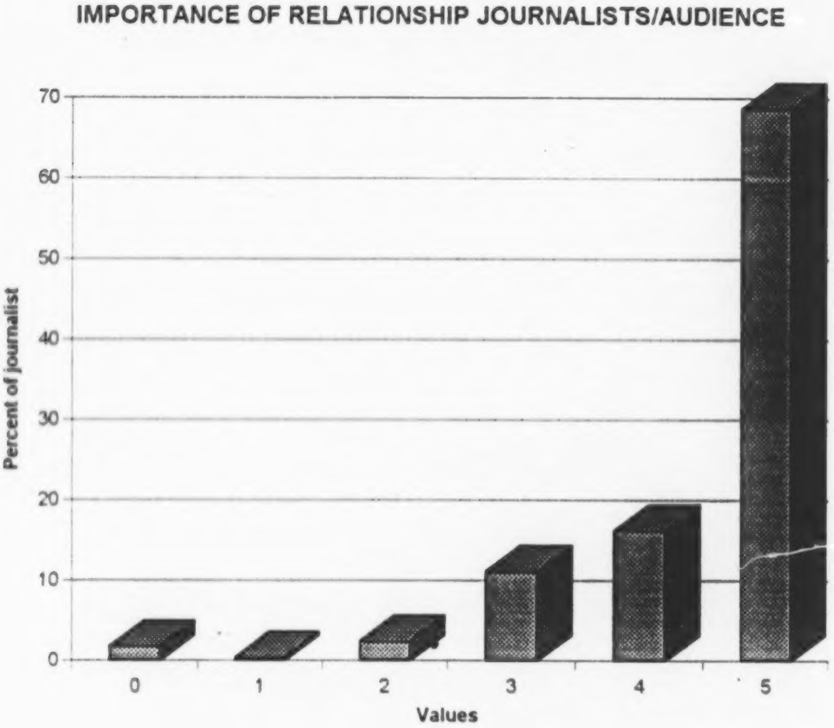
How then can a relationship based on confidence with the general public be re-established? On the one hand the journalist must continue to play an active role in the construction of news without being influenced by the public, but on the other perceives the need to mingle with the community to re-establish a point of contact that has broken down, mainly due to the profession's tendency in recent years to come too close to the political establishment (see also Mancini, 1991). For this reason, 84.7% of interviewees gave a high mark (4 or 5 on a scale of 0 to 5) to the importance of contact with the public, though as a source (rather than a producer) of news (see the table and the graph below).

TABLE 8: Importance of contact with the public

Value label	Value	Frequency	Percent	Valid percent	Cum percent
	0,00	5	1,7	1,7	1,7
	1,00	1	0,3	0,3	2,0
	2,00	7	2,3	2,3	4,3
	3,00	33	11,0	11,0	15,4
	4,00	48	16,0	16,1	31,4
	5,00	205	68,3	68,6	100,0
	Missing	1	0,3	Missing	
	Total	300	100,0	100,0	

Valid cases = 299 Missing cases = 1

GRAPH 5



Legend : 1 = none at all
5 = a great deal

The same point of departure applies to civic journalism: the gap between journalism and the general public, the same need to concur on relevant issues, though different solutions suggested. The public therefore does not indicate relevant issues, but is rather a source from which the issues are developed; the community does not form a partnership with the journalist in defining the news, but is itself a source, the reality that the producers of news must be able to report.

So while Italian journalists claim a substantial degree of autonomy in the selection of news items despite the preferences of the given audience, their attitude to

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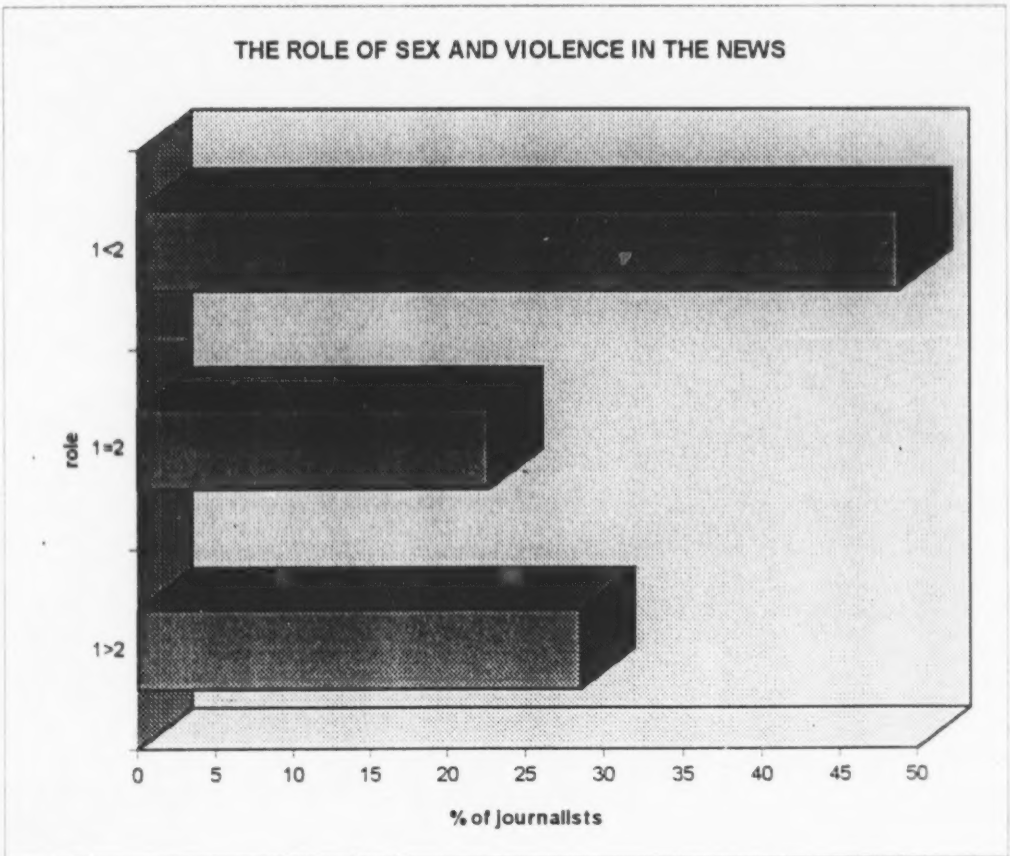
the packaging of news needs defining. What exactly is the role of sensationalism? The following results were obtained for the question asking whether the use of sex and violence in the news report mainly reflected aspects of reality or rather a way of attracting attention (the interviewees gave a weight in percentage to the two alternatives so that the final combined result was 100%). The sensationalistic use of these elements prevailed over their use as a reflection of reality (48.8% against 28.5%, while 22.7% attributed an equal weight to both - see the graph and the tables below).

GRAPH 6



Legend: 1 = role: to reflect aspects of reality
2 = role: to attract attention of the audience

TABLE 9: Role of sex and violence in the news: to reflect aspects of reality

Value label	Value	Frequency	Percent	Valid percent	Cum percent
	0,00	45	15,0	15,3	15.3
	10,0	1	0,3	0,3	15.6
	20,0	19	6,3	6,4	22.0
	25,0	9	3,0	3,1	25.1
	30,0	25	8,3	8,5	33.6
	35,0	5	1,7	1,7	35.3
	40,0	39	13,0	13,2	48.5
	45,0	1	0,3	0,3	48.8
	50,0	67	22,3	22,7	71.5
	60,0	15	5,0	5,1	76.6
	65,0	1	0,3	0,3	76.9
	70,0	16	5,3	5,4	82.4
	75,0	3	1,0	1,0	83.4
	80,0	12	4,0	4,1	87.5
	85,0	1	0,3	0,3	87.8
	90,0	2	0,7	0,7	88.5
	100,0	34	11,3	11,5	100.0
	Missing	5	1,7	Missing	
	Total	300	100,0	100,0	

Valid cases = 295 Missing cases = 5

TABLE 10: Role of sex and violence in the news: to attract attention of the audience

Value label	Value	Frequency	Percent	Valid percent	Cum percent
	0,00	34	11,3	11,5	11,5
	10,0	2	0,7	0,7	12,2
	15,0	1	0,3	0,3	12,5
	20,0	12	4,0	4.1	16,6
	25,0	3	1,0	1,0	17,6
	30,0	16	5,3	5,4	23,1
	35,0	1	0,3	0,3	23,4
	40,0	15	5,0	5,1	28,5
	50,0	67	22,3	22,7	51,2
	55,0	1	0,3	0,3	51,5
	60,0	39	13,0	13,2	64,7
	65,0	5	1,7	1,7	66,4
	70,0	25	8,3	8,5	74,9
	75,0	9	3,0	3,1	78,0
	80,0	19	6,3	6,4	84,4
	90,0	1	0,3	0,3	84,7
	100,0	45	15,0	15,3	100.0
	Missing	5	1,7	Missing	
	Total	300	100,0	100,0	

Valid cases = 295 Missing cases = 5

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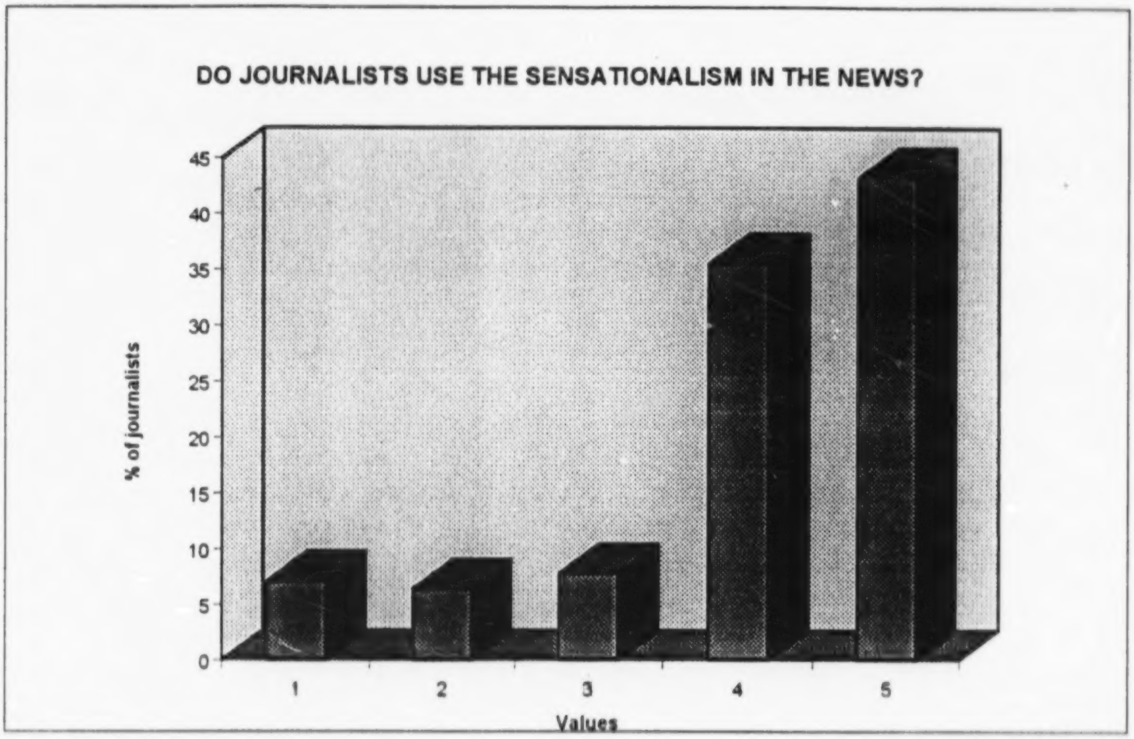
Can we conclude then that the journalist, when reporting news, prefers to use the sensational rather than serious analysis to draw attention?

TABLE 10: Do a journalist, when reporting news, use the sensational rather than analysis to draw attention?

Value label	Value	Frequency	Percent	Valid percent	Cum percent
strongly disagree	1,00	21	7,0	7,1	7,1
somewhat disagree	2,00	19	6,3	6,4	13,5
are you neutral	3,00	23	7,7	7,8	21,3
somewhat agree	4,00	105	35,0	35,5	56,8
strongly agree	5,00	128	42,7	43,2	100,0
	Missing	4	1,3	Missing	
	Total	300	100,0	100,0	

Valid cases = 296 Missing cases = 4

GRAPH 7



Legend: 1 = strongly disagree
2 = somewhat disagree
3 = are you neutral
4= somewhat agree
5 = strongly agree

In this case, the answers by and large concur, even though the causes indicated by the interviewees to explain this tendency are various.

They said that sensationalism may be:

1. the consequence of the general public's preference for this approach.

2. used by journalists to facilitate their work. (The shortage of time and relevant knowledge of the issue do not allow the journalist to analyze it in depth.)

3. consistent with a political preference to create a product that is easier to control and manipulate.

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4. the consequence of the journalist's inclination to showing off and being at the center of attention.

5. a reaction to the competition; no-one has the courage to use a different approach.

6. the consequence of the degeneration of an approach originally aimed at breaking with a tradition characterized by "dull, listless" news reporting.

The above concern the motives; also the *attitudes* were quite different.

In fact, sensationalism may be:

1. positive because it has eliminated the tedium from news reporting.
2. necessary to attract attention and involve the public, but should be complemented by analysis.
3. negative because it is the degeneration of a lively, stimulating approach to news reporting.
4. dependent on the type of report: for some it is positive, for others more in-depth analysis is required.
5. negative because it runs counter to the informative and/or educational functions of journalism.

The general public therefore has no bearing on the selection of news items, but does it condition their presentation? In this regard, the journalists were asked whether their audiences had a preference for news with a significant emotional impact over analytical journalism, for the elements of conflict over the solution of problems. These are the results of the questions:

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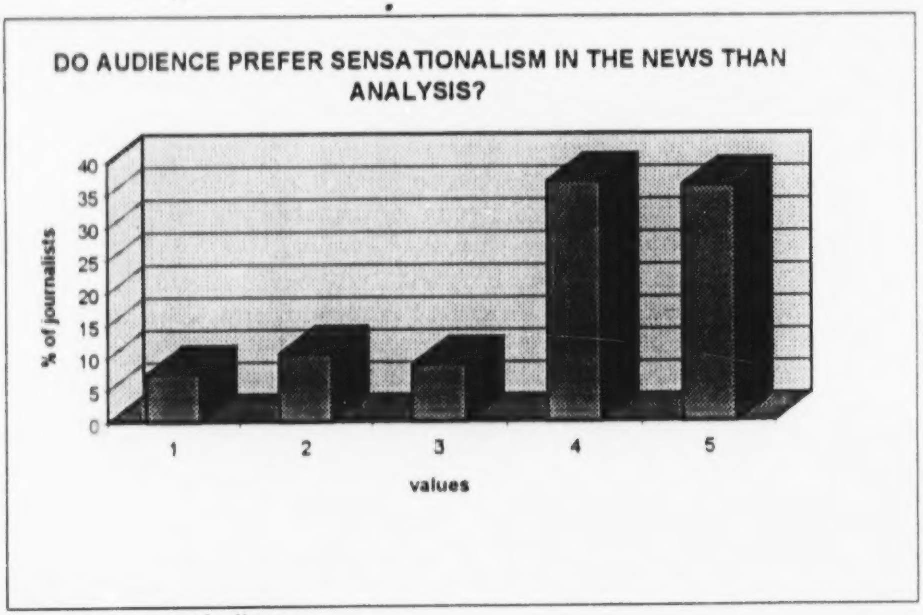
TABLE 11: Do audience prefer news with a significant emotional impact than analysis ?

Value label	Value	Frequency	Percent	Valid percent	Cum percent
strongly disagree	1,00	22	7,3	7,5	7,5
somewhat disagree	2,00	31	10,3	10,5	18,0
are you neutral	3,00	26	8,7	8,8	26,8
somewhat agree	4,00	109	36,3	36,9	63,7
strongly agree	5,00	107	35,7	36;3	100,0
	Missing	5	1,7	Missing	
	Total	300	100,0	100,0	

Valid cases = 295 Missing cases = 5

GRAPH 8



Legend: 1 = strongly disagree
2 = somewhat disagree
3 = are you neutral
4 = somewhat agree
5 = strongly agree

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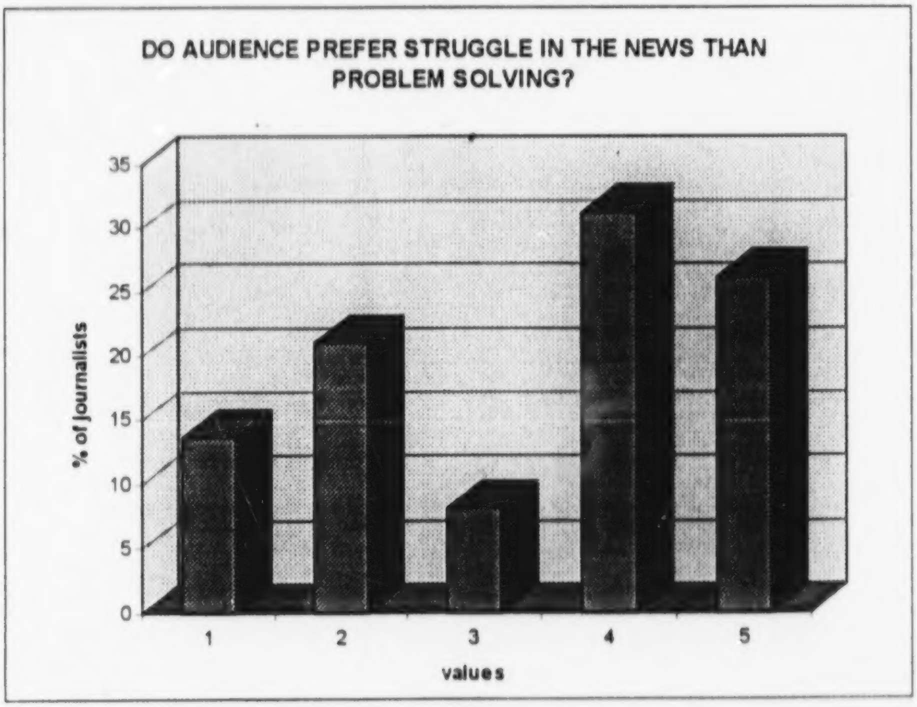
TABLE 12: Do audience prefer struggle in the news than problem solving ?

Value label	Value	Frequency	Percent	Valid percent	Cum percent
strongly disagree	1,00	40	13,3	13,6	13,6
somewhat disagree	2,00	62	20,7	21,0	34,6
are you neutral	3,00	24	8,0	8,1	42,7
somewhat agree	4,00	92	30,7	31,2	73,9
strongly agree	5,00	77	25,7	26,1	100,0
	Missing	5	1,7	Missing	
	Total	300	100,0	100,0	

Valid cases = 295 Missing cases = 5

GRAPH 9



Legend: 1 = strongly disagree
2 = somewhat disagree
3 = are you neutral
4 = somewhat agree
5 = strongly agree

In both cases, the former alternative proved the most important (73.2% and 57.3%). Two main explanations were given for audiences' preference for spectacular coverage: a poorly developed inclination towards analysis and in-depth reports on the one hand, and the habit induced by the availability of only the one type of approach on the other. It is interesting however to note that a majority of the interviewees (59.3%) then went on to contradict these claims by stating that there is an increasing demand for more substantial news coverage with less sensationalism.

TABLE 13: Is there an increasing demand for news with less sensationalism ?

Value label	Value	Frequency	Percent	Valid percent	Cum percent
strongly disagree	1,00	44	14,7	14,8	14,8
somewhat disagree	2,00	55	18,3	18,5	33,3
are you neutral	3,00	22	7,3	7,4	40,7
somewhat agree	4,00	76	25,3	25,6	66,3
strongly agree	5,00	100	33,3	33,7	100,0
	Missing	3	1,0	Missing	
	Total	300	100,0	100,0	

Valid cases = 297 Missing cases = 3

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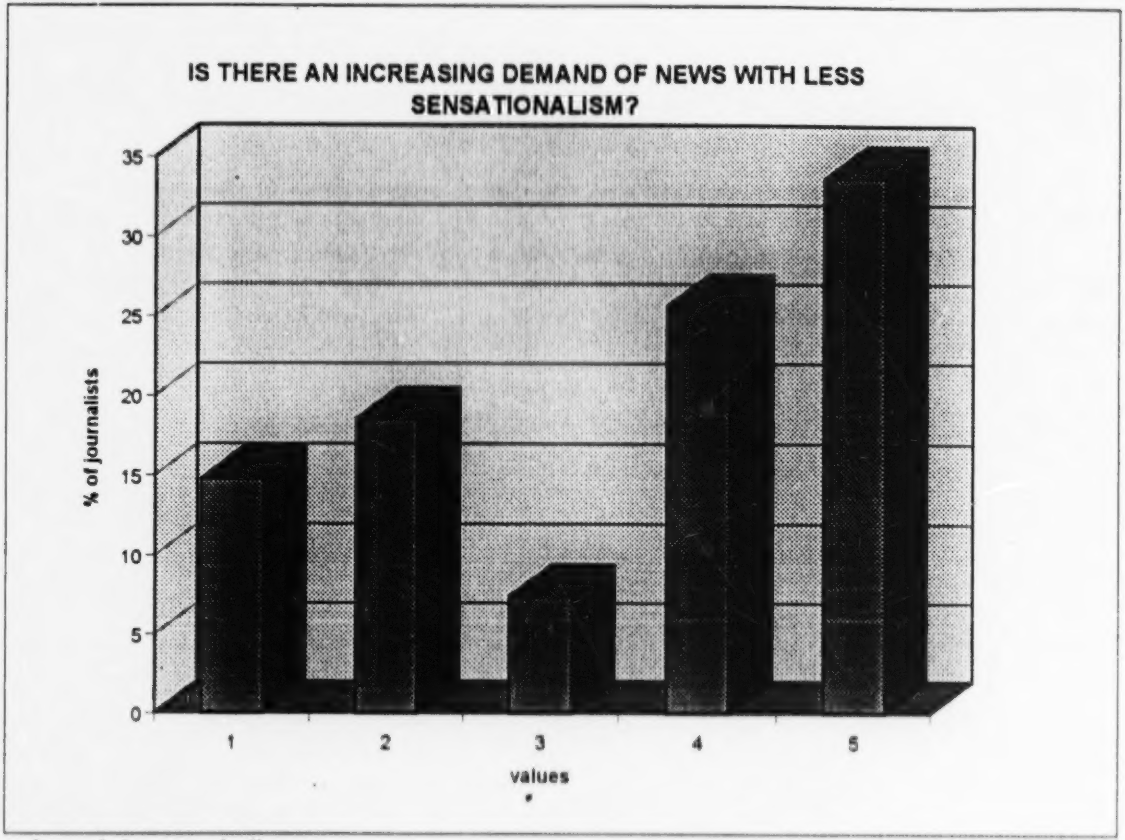
GRAPH 10



Legend: 1 = strongly disagree
2 = somewhat disagree
3 = are you neutral
4 = somewhat agree
5 = strongly agree

This is not necessarily a contradiction if we consider that sensationalism may be a complex answer to a complex need. On one hand there is the need of packaging the news in a way that enhance its utilization by the public; on the other hand there is the need to not distort the reality. Also, we need to understand whether this distortion of reality has negative effects on political attitudes of the public.

The problem may be that the Italian journalists seem not recognize this structural plurality of functions of their work (news construction). As a matter of fact in their open comments to these questions in the survey, they show that they experience these conflicting needs and results of their work more as a matter of bad quality, than as a need to define complex quality standards for a complex product, like the news is.

Conclusions

Even though to date only an initial examination of survey results has been conducted, therefore requiring a more in-depth analysis, some important trends can be identified:

1. Unlike the model represented by civic journalism, the ideal model indicated by the Italian journalists necessarily involves the autonomy of journalists in the selection of news items without any external influence from the general public.

2. Consequence of this is that the public is considered one of the sources rather than one of the producers of news.

3. There were conflicting viewpoints among interviewees regarding the effective influence of the general public on the presentation of news; in any case, the journalists do not know the real preferences of the audience, relying on their own (real or incorrect) image of it.

4. Journalists consciously use a sensationalistic approach in their reports, though are unaware of the whole effects provoked by these frames on the public. Even when journalists are critical of using this method to construct a news report to catch the public's attention, *their negative attitude is motivated by the recognized poor aesthetic quality of the report, and not by its potential influence on the relationship between the public and the political institution*

These findings thus underscore the increasingly urgent need to analyze more in depth the issues of news production, and consequently of its effective quality standards.

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